

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development amends Chapter 1, “Organization,” Chapter 23, “Iowa Community Development Block Grant Program,” Chapter 53, “Community Economic Betterment Account (CEBA) Program,” Chapter 57, “Value-Added Agricultural Products and Processes Financial Assistance Program (VAAPFAP),” Chapter 59, “Enterprise Zone (EZ) Program,” Chapter 60, “Entrepreneurial Ventures Assistance (EVA) Program,” Chapter 61, “Physical Infrastructure Assistance Program (PIAP),” Chapter 68, “High Quality Job Creation (HQJC) Program,” and Chapter 69, “Loan and Credit Guarantee Program”; adopts Chapter 74, “Grow Iowa Values Financial Assistance Program,” and Chapter 75, “Opportunities and Threats Program”; and amends Chapter 165, “Allocation of Grow Iowa Values Fund,” Chapter 173, “Standard Definitions,” Chapter 174, “Wage, Benefit, and Investment Requirements,” Chapter 175, “Application Review and Approval Procedures,” Chapter 187, “Contracting,” and Chapter 189, “Annual Reporting,” Iowa Administrative Code.

These amendments are intended to implement 2009 Iowa Acts, Senate File 344. This rule making amends 15 existing chapters and adopts 2 new chapters. 2009 Iowa Acts, Senate File 344, simplifies four state financial assistance programs (CEBA, PIAP, VAAPFAP, EVA), three funding sources (“old money,” IVF (FES), IVF (2005)), and two tax credit programs (HQJC, EZ). These legislative changes will make it easier for the Department to report on program results, easier for the public to evaluate performance, easier for the state to administer, and easier for businesses to understand performance expectations.

2009 Iowa Acts, Senate File 344, standardizes and simplifies the Department’s state financial assistance requirements. The amendments accomplish the following:

- Provide that awards will be based on the creation or retention of high-quality jobs;
- Provide that award amounts will be based on the Fiscal Impact Ratio (FIR);
- Provide that awards are negotiable and tied to the Fiscal Impact Ratio (FIR);
- Establish standard qualifying wage thresholds (100 percent or 130 percent of county or regional wage, whichever is lower; 90 percent in Enterprise Zone and EDSA projects that do not receive awards from multiple programs);
- Establish a standard benefit package requirement (company must pay 80 percent of single or 50 percent of family coverage or a monetary equivalent for medical and dental coverage) for which the company will receive a 10 percent credit toward its wage threshold calculation (the benefits credit is only applicable to the 130 percent wage component and HQJP);
- Establish a standard project completion period (three years from project award date) and project maintenance period (two years from project completion date);
- Provide that all requests for assistance will be acted upon by the IDED Board; and
- Provide that businesses receiving more than one type of financial assistance will contract for and be measured on the highest wage requirement of the program components awarded.

The Iowa Economic Development Board adopted the amendments on June 18, 2009.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable and contrary to the public interest because 2009 Iowa Acts, Senate File 344, became effective on July 1, 2009, and the legislative changes apply to all applications received on or after July 1, 2009.

The Department finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendments should be waived and the amendments be made effective on July 1, 2009, the same date 2009 Iowa Acts, Senate File 344, became effective. These amendments confer a benefit on the public by ensuring that the program rules are updated to reflect recent statutory changes and to allow the Department to process applications for pending projects in a timely manner.

These amendments are also published herein under Notice of Intended Action as **ARC 7971B** to allow for public comment.

These amendments became effective on July 1, 2009.

These amendments are intended to implement 2009 Iowa Acts, Senate File 344.

The following amendments are adopted.

ITEM 1. Amend rule **261—1.2(15)**, definition of “Board,” as follows:

“Board” or “IDED board” means the Iowa economic development board created by Iowa Code chapter 15 ~~as amended by 2005 Iowa Acts, House File 868.~~

ITEM 2. Amend rule 261—1.3(15) as follows:

**261—1.3(15) Iowa department of economic development board.**

**1.3(1) Composition.**

a. and b. No change.

~~c. —Voting members—representation on the board following the transitional year (July 1, 2005, to June 30, 2006). Following the transitional year, at least one of the voting members shall be less than 30 years of age at the time of appointment. At least 9 members of the board shall be actively employed in the private, for-profit sector of the economy. Each of the following areas of expertise shall be represented by at least 1 member of the board who has professional experience in that area of expertise:~~

~~(1) —Finance, insurance, or investment banking.~~

~~(2) —Advanced manufacturing.~~

~~(3) —Statewide agriculture.~~

~~(4) —Life sciences.~~

~~(5) —Small business development.~~

~~(6) —Information technology.~~

~~(7) —Economics.~~

~~(8) —Labor.~~

~~(9) —Marketing.~~

~~(10) —Entrepreneurship.~~

**1.3(2) and 1.3(3) No change.**

**1.3(4) Board committees.** The board shall establish the following statutorily authorized committees: a due diligence committee pursuant to Iowa Code section 15.103(6), a loan and credit guarantee committee pursuant to Iowa Code section 15.103(6) as amended by 2009 Iowa Acts, Senate File 344, section 18, and a technology commercialization committee, ~~and pursuant to Iowa Code section 15.116 as amended by 2009 Iowa Acts, Senate File 344, section 22.~~ The board may, from time to time, establish other standing committees that the board members deem necessary to assist the board in carrying out its duties. Meetings of standing committees are open to the public pursuant to Iowa Code chapter 21. The board chairperson may appoint such other ad hoc advisory committees as deemed necessary for specific purposes. An ad hoc committee appointed by the chairperson shall be comprised of less than a quorum of the board. Meetings of ad hoc committees or subcommittees appointed by the board chairperson are not open to the public. ~~The board chairperson may appoint a nominations committee as described in paragraph 1.3(4) “d” for the purpose of developing recommendations to the board for the election of a board chairperson, vice chairperson, and membership on board committees. Upon recommendation of the nominations committee, the board shall elect the members of the committees, and the board chairperson shall designate the chairpersons and vice chairpersons of all committees.~~

**1.3(5) Standing committees.**

a. *Due diligence committee.* The due diligence committee shall be an advisory committee composed of voting members of the board elected annually by the voting members of the board. The size of the committee and the terms of committee members will be established annually by the board. Duties of the due diligence committee include, but are not limited to, carrying out any duties assigned by the board in relation to programs administered by the department, reviewing applications for financial assistance, conducting a thorough review of proposed projects and making recommendations to the board regarding funding. A majority of committee members constitutes a quorum. Nonvoting,

ex officio members of the board may be appointed by the chairperson of the due diligence committee to serve on the due diligence committee as nonvoting, ex officio members.

*b. Loan and credit guarantee committee.* The loan and credit guarantee committee shall be an advisory committee composed of voting members of the board elected annually by the voting members of the board. The size of the committee and the terms of committee members will be established annually by the board. Duties of the loan and credit guarantee committee include, but are not limited to, carrying out any duties assigned by the board in relation to the loan and credit guarantee program administered by the department, reviewing loan and credit guarantee applications and making recommendations to the board regarding funding. A majority of committee members constitutes a quorum. Nonvoting, ex officio members of the board may be appointed by the chairperson to serve on the loan and credit guarantee committee as nonvoting, ex officio committee members. The loan and credit guarantee program was repealed by 2009 Iowa Acts, Senate File 344. This board committee shall continue to exist until the program has been closed out.

*c. Technology commercialization committee.* To evaluate and approve funding for projects and programs under ~~2005 Iowa Acts, House File 809, section 19, Iowa Code section 15G.111 as amended by 2009 Iowa Acts, Senate File 344, section 2,~~ the board shall create a technology commercialization committee composed of members with expertise in the areas of biosciences, engineering, manufacturing, pharmaceuticals, materials, information solutions, software, and energy. At least one member of the technology commercialization committee shall be a member of the economic development board. The size of the committee and the terms of committee members will be established annually by the board. An organization designated by the department, composed of members from both the public and private sectors and composed of subunits or subcommittees in the areas of already identified bioscience platforms, education and workforce development, commercialization, communication, policy and governance, and finance, shall provide funding recommendations to the technology commercialization committee. A majority of committee members constitutes a quorum.

~~*d. Nominations committee.* The board chairperson may appoint a nominations committee comprised of voting members of the board. The committee shall be appointed by the chairperson at a meeting of the board prior to May 1 of each year.~~

*d. Community and workforce development committee.* The community and workforce development committee shall be an advisory committee to the board on workforce development matters. The committee shall review and make recommendations regarding programs such as CDBG and HOME programs which include housing, public infrastructure and public facilities funding programs; main street Iowa and downtown resource center; tourism office; training programs established by Iowa Code chapters 260E, 260F and 260G; workforce and economic development training fund; and programs administered by the innovation and commercialization division such as internship, career awareness, up-skilling and related programs.

**1.3(6) Ad hoc committees.** The board chairperson or committee chairpersons, as applicable, may appoint ad hoc advisory committees and subcommittees that meet for specific, limited purposes including but not limited to:

*a. Nominations committee.* Prior to May 1 of each year, the board chairperson may appoint a nominations committee comprised of voting members of the board for the purpose of developing recommendations to the full board for the election of a board chairperson, vice-chairperson, and membership on the board's standing committees. Upon recommendation of the nominations committee, the board shall elect the members of the committees, and the board chairperson shall designate the chairpersons and vice-chairpersons of all committees.

*b. Finance review committee.* The board chairperson may appoint a finance review committee comprised of voting members of the board for the purpose of periodically meeting with department officials to review the department's regularly maintained financial records and other financial information requested by the board. The finance review committee may also attend audit entrance and exit interviews conducted by the auditor of state with department officials. The finance review committee is advisory only and may provide recommendations to the board.

c. *Due diligence subcommittee.* The due diligence committee chairperson may appoint a due diligence subcommittee comprised of voting members of the board for the purpose of reviewing requests for project extensions, amended awards, workouts and project restructures. The due diligence subcommittee is advisory only and may provide recommendations to the due diligence committee.

~~1.3(5)~~ 1.3(7) *Appeals of department of revenue decisions—wage-benefit tax credit program appeals.* A business whose application for a wage-benefit tax credit has been denied by the department of revenue may appeal the decision to the board. The appeal must be made in writing and received by the department within 30 days of the date on the notice of denial sent to the business by the department of revenue. The board may uphold or overturn the decision of the department of revenue. If the IDED board overturns the decision of the department of revenue, the department of revenue will be instructed, subject to availability, to issue a tax credit certificate.

ITEM 3. Amend **261—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 15 as amended by 2009 Iowa Acts, Senate File 344, 2005 Iowa Acts, House File 868 and House File 809 chapter 15G as amended by 2009 Iowa Acts, Senate File 344, and Iowa Code section 17A.3.

ITEM 4. Rescind the definitions of “Average county wage” and “Average regional wage” in rule **261—23.2(15)**.

ITEM 5. Adopt the following new rule 261—53.18(15,83GA,SF344):

**261—53.18(15,83GA,SF344) Applicability of CEBA program after July 1, 2009.**

**53.18(1)** Effective July 1, 2009, the CEBA program is rescinded by 2009 Iowa Acts, Senate File 344, and replaced with the grow Iowa values financial assistance program. Rules for the grow Iowa values financial assistance program may be found in 261—Chapter 74.

**53.18(2)** For awards made prior to July 1, 2009, the rules of 261—Chapter 53 shall govern for purposes of contract administration and closeout of projects. A contract amendment is not allowable if the result of the amendment is to increase the benefits available.

This rule is intended to implement 2009 Iowa Acts, Senate File 344.

ITEM 6. Adopt the following new rule 261—57.16(15E,83GA,SF344):

**261—57.16(15E,83GA,SF344) Applicability of VAAPFAP program after July 1, 2009.**

**57.16(1)** Effective July 1, 2009, the VAAPFAP program is rescinded by 2009 Iowa Acts, Senate File 344, section 9, and replaced with the grow Iowa values financial assistance program. Rules for the grow Iowa values financial assistance program may be found in 261—Chapter 74.

**57.16(2)** For awards made prior to July 1, 2009, the rules of 261—Chapter 57 shall govern for purposes of contract administration and closeout of projects. A contract amendment is not allowable if the result of the amendment is to increase the benefits available.

This rule is intended to implement 2009 Iowa Acts, Senate File 344.

ITEM 7. Amend subrule 59.1(2) as follows:

**59.1(2) *Administrative procedures.*** The EZ program is subject to the requirements of the department’s rules located in 261—Part VII, additional application requirements and procedures, and 261—Part VIII, legal and compliance. Part VII and Part VIII include standard definitions; standard program requirements; wage, benefit and investment requirements; application review and approval procedures; contracting; contract compliance and job counting; and annual reporting requirements.

ITEM 8. Amend rule **261—59.2(15E)**, definition of “Act,” as follows:

“Act” means Iowa Code sections 15E.191 to 15E.197 as amended by ~~2007 Iowa Acts, House File 648~~ 2009 Iowa Acts, Senate File 344.

ITEM 9. Rescind the definition of “Project initiation” in rule 261—59.2(15E).

ITEM 10. Amend rule 261—59.6(15E) as follows:

**261—59.6(15E) Eligible business.**

**59.6(1) Requirements.** A business which is or will be located, in whole or in part, in an enterprise zone is eligible to be considered to receive incentives and assistance under the Act if the business meets all of the following:

a. and b. No change.

c. *Employee benefits.* ~~The business provides all full time employees with the option of choosing one of the following:~~

~~(1) The business pays 80 percent of both of the following:~~

~~1. The cost of a standard medical insurance plan, and~~

~~2. The cost of a standard dental insurance plan or an equivalent plan.~~

~~(2) The business provides the employee with a monetarily equivalent plan to the plan provided for in subparagraph (1) above. The business offers or will offer a sufficient benefits package to its employees as defined in 261—Chapter 173.~~

d. *Wage levels.* ~~The business pays an average wage that is at or greater than 90 percent of the lesser of the average county wage or average regional wage, as determined by the department. The business pays or will pay the qualifying wage threshold for the enterprise zone program as established in 261—Chapter 174 and defined in 261—Chapter 173. However, in any circumstance, the wage paid by the business for the project jobs shall not be less than \$7.50 per hour. The local enterprise zone commission may establish higher company eligibility wage thresholds if it so desires.~~

e. *Job creation or retention.* ~~The business expansion or location must result in at least ten full-time project jobs. The time period allowed to create the jobs and the required period to retain the jobs are described in 261—Chapter 187. For an existing business in counties with a population of 10,000 or less or in cities with a population of 2,000 or less, the commission may adopt a provision that allows the business to create at least five initial jobs with the additional five jobs to be added within five years. The business shall include in its strategic plan the time line for job creation. If the existing business fails to meet the ten job creation requirement within the five year period, all incentives and assistance will cease immediately.~~

f. *Capital investment.* ~~The business makes a capital investment of at least \$500,000. If the business will be occupying a vacant building suitable for industrial use, the fair market value of the building and land, not to exceed \$250,000, as determined by the local enterprise zone commission, shall be counted toward the capital investment requirement. An existing business that has been operating in the enterprise zone for at least five years is exempt from the capital investment requirement of this paragraph of up to \$250,000 of the fair market value, as established by an appraisal, of the building and land. The capital investment amount stated in the business’s application must be completed within three years of the effective date of the agreement described in rule 59.9(15E).~~

g. *Location within zone.* If the business is only partially located in an enterprise zone, the business must be located on contiguous land.

**59.6(2) Additional information.** In addition to meeting the requirements under subrule 59.6(1), an eligible business shall provide the enterprise zone commission with all of the following:

a. The long-term strategic plan for the business, which shall include labor and infrastructure needs.

b. Information dealing with the benefits the business will bring to the area.

c. Examples of why the business should be considered or would be considered a good business enterprise.

d. The impact the business will have on other Iowa businesses in competition with it. The enterprise zone commission shall make a good faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for assistance. The enterprise zone commission shall make a good faith effort to determine the probability that the proposed financial assistance will displace employees of the existing businesses. In determining the impact on businesses

in competition with the business being considered for assistance, jobs created or retained as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created or retained.

~~*e.* — An affidavit that it has not, within the last five years, violated state or federal environmental and worker safety statutes, rules, and regulations or if such violation has occurred that there were mitigating circumstances or such violations did not seriously affect public health or safety or the environment.~~

*e.* A report describing all violations of environmental law or worker safety law within the last five years. If, upon review of the application, the enterprise zone commission finds that a business has a record of violations of the law, statutes, rules, or regulations that tends to show a consistent pattern, the enterprise zone commission shall not make an award of financial assistance to the business unless the commission finds either that the violations did not seriously affect public health, public safety, or the environment, or, if such violations did seriously affect public health, public safety, or the environment, that mitigating circumstances were present.

**59.6(3) Benefits.** The department reserves the right to negotiate the amount of all program benefits except the following benefits: the new jobs supplemental credit; the value-added property tax exemption; and the refund of sales, service and use taxes paid to contractors and subcontractors. The following incentives and assistance may be available to an eligible business within a certified enterprise zone, subject to the amount of incentives and assistance negotiated by the department with the eligible business and agreed upon as described in an executed agreement, only when the average wage of all the new project jobs meets the minimum wage requirements of 59.6(1) “d”:

*a. New jobs supplemental credit; alternative credit for housing assistance programs.*

(1) An approved business shall receive a new jobs supplemental credit from withholding in an amount equal to 1½ percent of the gross wages paid by the business, as provided in Iowa Code section 15E.197. The supplemental new jobs credit available under this program is in addition to and not in lieu of the program and withholding credit of 1½ percent authorized under Iowa Code chapter 260E. Additional new jobs created by the project, beyond those that were agreed to in the original agreement as described in 261—59.12(15E), are eligible for the additional 1½ percent withholding credit as long as those additional jobs meet the local enterprise zone wage eligibility criteria and are an integral part or a continuation of the new location or expansion. Approval and administration of the supplemental new jobs credit shall follow existing procedures established under Iowa Code chapter 260E. Businesses eligible for the new jobs training program are those businesses engaged in interstate commerce or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but exclude retail, health or professional services.

(2) — ~~As an alternative to the credit described in subparagraph (1) above, a business may provide a housing assistance program in the form of down payment assistance or rental assistance for employees in new jobs, as defined in Iowa Code section 260E.2, who buy or rent housing located within any certified enterprise zone. A business establishing a housing assistance program shall fund this program through a credit from withholding based on the wages paid to the employees participating in the housing assistance program. An amount equal to 1½ percent of the gross wages paid by the employer to each employee participating in the housing assistance program shall be credited from the payment made by an employer pursuant to Iowa Code section 422.16. If the amount of the withholding by the employer is less than 1½ percent of the gross wages paid to the employees, then the employer shall receive a credit against other withholding taxes due by the employer. The employer shall deposit the amount of the credit quarterly into a housing assistance fund created by the business out of which the business shall provide employees enrolled in the housing assistance program with down payment assistance or rental assistance.~~

(3) — ~~A business may enter into an agreement with the county or city designating the enterprise zone pursuant to Iowa Code section 15E.194 to borrow initial moneys to fund a housing assistance program. The county or city may appropriate from the general fund of the county or city for the assistance program an amount not to exceed an amount estimated by the department of revenue to be equal to the total amount of credit from withholding for employees determined by the business to be enrolled in the program during the first two years. The business shall pay the principal and interest on the loan out of moneys received from the credit from withholding provided for in subparagraph (1). The terms of the loan agreement shall include the principal amount, the interest rate, the terms of repayment, and the term of the loan. The~~

~~agreement shall require that the down payment assistance or rental assistance provided for employees in new jobs be repaid, in whole or in part, in the event an employee is no longer employed by the business or defaults under the agreement between the business and an employee. The terms of the loan agreement shall not extend beyond the period during which the enterprise zone is certified. The employer shall certify to the department of revenue that the credit from withholding is in accordance with an agreement and shall provide other information the department of revenue may require. The business shall enter into an agreement with each employee receiving down payment or rental assistance. The agreements shall include terms and conditions of the receipt of the assistance and repayment provisions should the employee no longer work for the business or default under the terms of the agreement.~~

~~(4) An employee participating in the housing assistance program will receive full credit for the amount withheld as provided in Iowa Code section 422.16.~~

~~(5) The 1½ percent supplemental credit authorized under this rule may be apportioned between the 260E training programs described in subparagraph (1) and the down payment or rental assistance program described in subparagraph (2).~~

b. to g. No change.

**59.6(4) and 59.6(5)** No change.

ITEM 11. Amend **261—Chapter 59**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 15.333, 15.333A, and 15E.191 to 15E.196 and ~~2001 Iowa Acts, chapter 141~~ 2009 Iowa Acts, Senate File 344.

ITEM 12. Adopt the following new rule 261—60.10(15,83GA,SF344):

**261—60.10(15,83GA,SF344) Applicability of EVA program after July 1, 2009.**

**60.10(1)** Effective July 1, 2009, the EVA program is rescinded by 2009 Iowa Acts, Senate File 344, section 9, and replaced with the grow Iowa values financial assistance program. Rules for the grow Iowa values financial assistance program may be found in 261—Chapter 74.

**60.10(2)** For awards made prior to July 1, 2009, the rules of 261—Chapter 60 shall govern for purposes of contract administration and closeout of projects. A contract amendment is not allowable if the result of the amendment is to increase the benefits available.

This rule is intended to implement 2009 Iowa Acts, Senate File 344.

ITEM 13. Adopt the following new rule 261—61.9(15E):

**261—61.9(15E) Applicability of PIAP program after July 1, 2009.**

**61.9(1)** Effective July 1, 2009, the PIAP program is rescinded by 2009 Iowa Acts, Senate File 344, section 9, and replaced with the grow Iowa values financial assistance program. Rules for the grow Iowa values financial assistance program may be found in 261—Chapter 74.

**61.9(2)** For awards made or contracts entered into prior to July 1, 2009, the rules of 261—Chapter 61 shall govern for purposes of contract administration and closeout of projects. A contract amendment is not allowable if the result of the amendment is to increase the benefits available.

This rule is intended to implement 2009 Iowa Acts, Senate File 344.

ITEM 14. Amend **261—Chapter 68**, title, as follows:

**HIGH QUALITY ~~JOB JOBS~~ CREATION (HQJC) PROGRAM (HQJP)**

ITEM 15. Amend subrule 68.1(1) as follows:

**68.1(1) Administrative procedures.** The ~~HQJC program~~ HQJP is subject to the requirements of the department's rules located in 261—Part VII, additional application requirements and procedures, and 261—Part VIII, legal and compliance. Part VII and Part VIII include standard definitions; standard program requirements; wage, benefit and investment requirements; application review and approval procedures; contracting; contract compliance and job counting; and annual reporting requirements.

ITEM 16. Amend subrule 68.1(2), introductory paragraph, as follows:

**68.1(2) Definitions.** In addition to the standard definitions located in 261—Chapter 173, the following definitions apply to the ~~HQJC program~~ HQJP:

ITEM 17. Amend subrule **68.1(2)**, definitions of “Act,” “High quality jobs” and “Program,” as follows:

“Act” means Iowa Code sections 15.326 to 15.337 as amended by 2009 Iowa Acts, Senate File 344.

“High quality jobs” means ~~created jobs that, at minimum, have a starting wage, including benefits, equal to or greater than 130 percent of the average county wage or the wage established by the board as a result of the wage waiver process or retained jobs that meet the wage requirements established in~~ subrule 68.2(4) and subrules 68.2(7) and 68.2(8) when applicable.

“Program” means the high quality ~~job creation~~ jobs program.

ITEM 18. Rescind the definitions of “Community base jobs,” “Project initiation” and “Qualifying investment” in subrule **68.1(2)**.

ITEM 19. Adopt the following new definitions of “Contractor or subcontractor” and “Eligible business” in subrule **68.1(2)**:

“Contractor or subcontractor” means a person who contracts with the eligible business or subcontracts with a contractor for the provision of property, materials, or services for the construction or equipping of a facility of the eligible business.

“Eligible business” means a business meeting the conditions of Iowa Code section 15.329 as amended by 2009 Iowa Acts, Senate File 344, section 12.

ITEM 20. Amend subrule 68.2(2) as follows:

**68.2(2) Closures or relocations.** The business shall not close or substantially reduce ~~its operation~~ operations in one area of ~~the this~~ this state and relocate substantially the same ~~operation~~ operations in ~~the a~~ a community in another area of this state. This subrule ~~does~~ shall not be construed to prohibit the business from expanding its ~~operation~~ operations in ~~the a~~ a community if existing operations of a similar nature in ~~the this~~ this state are not closed or substantially reduced.

ITEM 21. Rescind subrule 68.2(4) and adopt the following new subrule in lieu thereof:

**68.2(4) Created and retained jobs.** The business shall create or retain jobs as part of a project.

a. The business shall pay the qualifying wage threshold for HQJP as established in 261—Chapter 174.

b. If the business is creating jobs, the business shall demonstrate that the jobs will pay at least 100 percent of the qualifying wage threshold at the start of the project completion period, at least 130 percent of the qualifying wage threshold by the project completion date, and at least 130 percent of the qualifying wage threshold until the maintenance period completion date.

c. If the business is retaining jobs, the business shall demonstrate that the jobs retained will pay at least 130 percent of the qualifying wage threshold throughout both the project completion period and the maintenance period.

ITEM 22. Renumber subrule **68.2(5)** as **68.2(7)**.

ITEM 23. Rescind subrule **68.2(6)**.

ITEM 24. Adopt the following new subrules 68.2(5) and 68.2(6):

**68.2(5) Determination of sufficient benefits.** The business shall provide a sufficient package of benefits to each employee holding a created or retained job. The business shall offer a sufficient benefits package to its employees as defined in 261—Chapter 173.

**68.2(6) Sufficient fiscal impact.** The business shall demonstrate that the jobs created or retained will have a sufficient impact on state and local government revenues as determined by the department after calculating the fiscal impact ratio of the project.



ITEM 25. Renumber subrules **68.2(7)** to **68.2(9)** as **68.2(8)** to **68.2(10)**.

ITEM 26. Amend renumbered subrule 68.2(10) as follows:

**68.2(10) Ineligibility—no high quality jobs created or retained.** If a project is creating or retaining jobs, but none are high quality jobs, then the project is not eligible to receive benefits and assistance under this program.

ITEM 27. Amend paragraph **68.3(1)“a”** as follows:

a. ~~The business is encouraged to apply prior to project initiation; however, an~~ An application may be submitted at any time up to 12 months following project completion will not be accepted after project initiation.

ITEM 28. Amend paragraph **68.3(4)“a”** as follows:

a. *Level of need.* The three general justifiable reasons for assistance are as follows:

(1) The business can raise only a portion of the debt and equity necessary to complete the project. A gap between sources and uses exists and state or federal funds or both are needed to fill the gap.

(2) The business can raise sufficient debt and equity to complete the project, but the returns are inadequate to motivate a company decision maker to proceed with the project. Project risks outweigh the rewards.

(3) The business is deciding between a site in Iowa (site A) and a site in another state (site B) for its project. The business argues that the project will cost less at site B and will require a subsidy to equalize costs in order to locate at site A. The objective is to quantify the cost differential between site A and site B.

Projects that have already been initiated will be considered as having minimal need not be considered for funding.

ITEM 29. Rescind subparagraph **68.3(4)“b”(4)**.

ITEM 30. Amend paragraph **68.3(4)“d”** as follows:

d. *Economic impact.* ~~The department will consider the economic costs and benefits to the state in determining what amount of tax incentives and assistance to offer the business.~~ In measuring the economic impact to this state, the department shall place greater emphasis on projects which demonstrate the following:

(1) A business with a greater percentage of sales out-of-state or of import substitution.

(2) A business with a higher proportion of in-state suppliers.

(3) A project which would provide greater diversification of the state economy.

(4) A business with fewer in-state competitors.

(5) A potential for future job growth.

ITEM 31. Adopt the following new subparagraph **68.4(1)“a”(3)**:

(3) The eligible business shall inform the department of revenue in writing within two weeks of project completion.

ITEM 32. Amend paragraph **68.4(1)“b”** as follows:

b. *Racks, shelving, and conveyor equipment.* If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may be entitled to a refund of sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the department for a refund. The application must include the refund amount being requested and documentation such as invoices or contracts which substantiate the requested amount. The department, in consultation with the department of revenue, will validate the refund amount and instruct the department of revenue to issue the refund.

The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment issued by the department to businesses approved for high quality job creation jobs program, new capital investment program, new jobs and income program, and enterprise zone program benefits shall not exceed \$500,000 during a fiscal year. Tax refunds and tax

credits will be issued on a first-come, first-served basis. If an approved business's application does not receive a refund or tax credits due to the \$500,000 fiscal year limitation, the approved business's application shall be considered in the succeeding fiscal year.

ITEM 33. Amend paragraph **68.4(2)“b”** as follows:

*b. Racks, shelving, and conveyor equipment.* If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may claim a corporate tax credit up to the amount of sales and use taxes paid by a third-party developer and attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the department for a tax credit. The application must include the tax credit amount being requested and documentation from the third-party developer such as invoices or contracts which substantiate the requested amount. The department, in consultation with the department of revenue, will confirm the tax credit amount and issue a tax credit certificate in an amount equal to all or a portion of the sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall not claim the tax credit provided in this subrule unless a tax credit certificate issued by the department is attached to the approved business's tax return for the tax year in which the tax credit is claimed. A tax credit certificate shall contain the approved business's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. An approved business may elect to receive a refund of all or a portion of an unused tax credit.

The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment issued by the department to businesses approved for high quality ~~job creation jobs~~ program, ~~new capital investment program~~, ~~new jobs and income program~~, and enterprise zone program benefits shall not exceed \$500,000 during a fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business's application does not receive a refund or tax credits due to the \$500,000 fiscal year limitation, the approved business's application shall be considered in the succeeding fiscal year.

ITEM 34. Amend subrule 68.4(3) as follows:

**68.4(3) Value-added property tax exemption.** Pursuant to Iowa Code section 15.332, the community may exempt from taxation all or a portion of the actual value added by improvements to real property directly related to ~~new~~ jobs created or retained by the location or expansion of the approved business and used in the operations of the approved business. The exemption may be allowed for a period not to exceed 20 years beginning the year the improvements are first assessed for taxation. For purposes of this subrule, improvements include new construction and rehabilitation of and additions to existing structures. The exemption shall apply to all taxing districts in which the real property is located. The community shall provide the department and the local assessor with a copy of the resolution adopted by its governing body which indicates the estimated value and duration of the authorized exemption.

ITEM 35. Amend paragraph **68.4(4)“a”** as follows:

*a. Claiming the investment tax credit.* Pursuant to Iowa Code section 15.333, the approved business may claim an investment tax credit equal to a percentage of the new investment directly related to ~~new~~ jobs created or retained by the start-up, location, expansion, or modernization of the approved business under the program. The tax credit shall be earned when the qualifying asset is placed in service.

(1) to (3) No change.

ITEM 36. Amend paragraph **68.4(4)“b,”** introductory paragraph, as follows:

*b. Investment qualifying for the tax credit.* For purposes of this subrule, new investment directly related to ~~new~~ jobs created or retained by the start-up, location, expansion or modernization of the approved business under the program means all of the following:

ITEM 37. Amend subparagraph **68.4(4)“c”(4)** as follows:

(4) Issuance of tax credit certificates. The department shall not issue tax credit certificates to approved businesses in the ~~high quality job creation program, the new capital investment program, the~~

~~new jobs and income program, high quality jobs program~~ and the enterprise zone program which total more than \$4 million during a fiscal year. If the department receives applications for tax credit certificates in excess of \$4 million, the applicants shall receive certificates for a prorated amount. In such a case, the tax credit requested by an approved business will be prorated based upon the total dollar amount of requested tax credit certificates received during the fiscal year. This proportion will be applied to the amount requested by each approved business to determine the amount of the tax credit certificate that will be distributed to each business for the fiscal year. For example, if an approved business submits a request in the amount of \$1 million and the total amount of requested tax credit certificates equals \$8 million, the business will be issued a tax credit certificate in the amount of \$500,000 (\$4 million / \$8 million = 50% × \$1 million = \$500,000). The department will issue tax credit certificates within a reasonable period of time following the May 15 application deadline.

ITEM 38. Amend subrule 68.4(5), introductory paragraph, as follows:

**68.4(5) Insurance premium tax credit.** Pursuant to Iowa Code section 15.333A, the approved business may claim an insurance premium tax credit equal to a percentage of the new investment directly related to ~~new~~ jobs created or retained by the start-up, location, expansion, or modernization of the approved business under the program.

ITEM 39. Amend paragraph **68.4(5)“b,”** introductory paragraph, as follows:

*b. Investment qualifying for the tax credit.* For purposes of this subrule, new investment directly related to ~~new~~ jobs created or retained by the start-up, location, expansion or modernization of the approved business under the program means all of the following:

ITEM 40. Amend subrule 68.4(7) as follows:

**68.4(7) Maximum tax incentives available.** Tax incentives and assistance awarded under this program are based upon the number of ~~new high quality~~ jobs created or retained by the approved business that pay the qualifying wage threshold for HQJP as established in 261—Chapter 174 and as defined in 261—Chapter 173 and the amount of qualifying investment. The maximum possible award is based on the following schedule:

~~*a. “High quality jobs” means created jobs with a starting wage, including benefits, equal to or greater than 130 percent of the average county wage but less than 160 percent of the average county wage or the wage established by the board as a result of the wage waiver process.*~~

~~(1) *a.*~~ No high quality jobs are created or retained but economic activity is furthered by the qualifying investment. For purposes of this ~~subparagraph~~ paragraph, “economic activity” means a modernization project which will result in increased skills and wages for the current employees; a project involving retained jobs; or a project that involves a waiver, granted by the board pursuant to rule 261—175.1(15) 174.6(15E, 15G, 83GA, SF344), of the ~~average county wage~~ qualifying wage threshold calculation if the reason for the waiver is that damages were sustained as a result of a natural disaster in a presidentially declared disaster area.

- ~~1. (1)~~ Less than \$100,000 in qualifying investment.
  - ~~1.~~ ♦ Investment tax credit or insurance premium tax credit of up to 1 percent.
  - ~~2.~~ Reserved.
- ~~2. (2)~~ \$100,000 to \$499,999 in qualifying investment.
  - ~~1.~~ ♦ Investment tax credit or insurance premium tax credit of up to 1 percent.
  - ~~2.~~ ♦ Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
- ~~3. (3)~~ \$500,000 or more in qualifying investment.
  - ~~1.~~ ♦ Investment tax credit or insurance premium tax credit of up to 1 percent.
  - ~~2.~~ ♦ Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
  - ~~3.~~ ♦ Research activities credit.
- ~~(2) b.~~ 1 to 5 high quality jobs are created or retained.
  - ~~1. (1)~~ Less than \$100,000 in qualifying investment.
    - ~~1.~~ ♦ Investment tax credit or insurance premium tax credit of up to 2 percent.

2. Reserved.

~~2.~~ (2) \$100,000 to \$499,999 in qualifying investment.

1. ♦ Investment tax credit or insurance premium tax credit of up to 2 percent.

2. ♦ Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

~~3.~~ (3) \$500,000 or more in qualifying investment.

1. ♦ Investment tax credit or insurance premium tax credit of up to 2 percent.

2. ♦ Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

3. ♦ Research activities credit.

~~(3)~~ c. 6 to 10 high quality jobs are created or retained.

~~1.~~ (1) Less than \$100,000 in qualifying investment.

1. ♦ Investment tax credit or insurance premium tax credit of up to 3 percent.

2. Reserved.

~~2.~~ (2) \$100,000 to \$499,999 in qualifying investment.

1. ♦ Investment tax credit or insurance premium tax credit of up to 3 percent.

2. ♦ Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

~~3.~~ (3) \$500,000 or more in qualifying investment.

1. ♦ Investment tax credit or insurance premium tax credit of up to 3 percent.

2. ♦ Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

3. ♦ Research activities credit.

~~(4)~~ d. 11 to 15 high quality jobs are created or retained.

~~1.~~ (1) Less than \$100,000 in qualifying investment.

1. ♦ Investment tax credit or insurance premium tax credit of up to 4 percent.

2. Reserved.

~~2.~~ (2) \$100,000 to \$499,999 in qualifying investment.

1. ♦ Investment tax credit or insurance premium tax credit of up to 4 percent.

2. ♦ Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

~~3.~~ (3) \$500,000 or more in qualifying investment.

1. ♦ Investment tax credit or insurance premium tax credit of up to 4 percent.

2. ♦ Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

3. ♦ Research activities credit.

~~(5)~~ e. 16 ~~or more to 30~~ high quality jobs are created or retained.

~~1.~~ (1) Less than \$100,000 in qualifying investment.

1. ♦ Investment tax credit or insurance premium tax credit of up to 5 percent.

2. Reserved.

~~2.~~ (2) \$100,000 to \$499,999 in qualifying investment.

1. ♦ Investment tax credit or insurance premium tax credit of up to 5 percent.

2. ♦ Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

~~3.~~ (3) \$500,000 or more in qualifying investment.

1. ♦ Investment tax credit or insurance premium tax credit of up to 4 percent.

2. ♦ Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

3. ♦ Research activities credit.

b. —“High quality jobs” means created jobs with a starting wage, including benefits, equal to or greater than 160 percent of the average county wage or the wage established by the board as a result of the wage waiver process.

- (1) ~~f.~~ 21 to 30 31 to 40 high quality jobs are created or retained.
1. ~~— Less than \$100,000 in qualifying investment.~~
    - ◆ ~~— Investment tax credit or insurance premium tax credit of up to 5 percent.~~
  2. ~~— \$100,000 to \$499,999 in qualifying investment.~~
    - ◆ ~~— Investment tax credit or insurance premium tax credit of up to 5 percent.~~
    - ◆ ~~— Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.~~
  3. ~~— \$500,000 to \$9,999,999 in qualifying investment.~~
    - ◆ ~~— Investment tax credit or insurance premium tax credit of up to 5 percent.~~
    - ◆ ~~— Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.~~
    - ◆ ~~— Research activities credit.~~
  4. (1) \$10 million or more in qualifying investment.
    1. ◆ Investment tax credit or insurance premium tax credit of up to 6 percent.
    2. ◆ Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
    3. ◆ Research activities credit.
    4. ◆ Value-added property tax exemption.
  - (2) Reserved.
- (2) ~~g.~~ 31 to 40 41 to 60 high quality jobs are created or retained.
1. ~~— Less than \$100,000 in qualifying investment.~~
    - ◆ ~~— Investment tax credit or insurance premium tax credit of up to 5 percent.~~
  2. ~~— \$100,000 to \$499,999 in qualifying investment.~~
    - ◆ ~~— Investment tax credit or insurance premium tax credit of up to 5 percent.~~
    - ◆ ~~— Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.~~
  3. ~~— \$500,000 to \$9,999,999 in qualifying investment.~~
    - ◆ ~~— Investment tax credit or insurance premium tax credit of up to 5 percent.~~
    - ◆ ~~— Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.~~
    - ◆ ~~— Research activities credit.~~
  4. (1) \$10 million or more in qualifying investment.
    1. ◆ Investment tax credit or insurance premium tax credit of up to 7 percent.
    2. ◆ Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
    3. ◆ Research activities credit.
    4. ◆ Value-added property tax exemption.
  - (2) Reserved.
- (3) ~~h.~~ 41 to 50 61 to 80 high quality jobs are created or retained.
1. ~~— Less than \$100,000 in qualifying investment.~~
    - ◆ ~~— Investment tax credit or insurance premium tax credit of up to 5 percent.~~
  2. ~~— \$100,000 to \$499,999 in qualifying investment.~~
    - ◆ ~~— Investment tax credit or insurance premium tax credit of up to 5 percent.~~
    - ◆ ~~— Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.~~
  3. ~~— \$500,000 to \$9,999,999 in qualifying investment.~~
    - ◆ ~~— Investment tax credit or insurance premium tax credit of up to 5 percent.~~
    - ◆ ~~— Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.~~
    - ◆ ~~— Research activities credit.~~
  4. (1) \$10 million or more in qualifying investment.
    1. ◆ Investment tax credit or insurance premium tax credit of up to 8 percent.

2.        ♦ Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

3.        ♦ Research activities credit.

4.        ♦ Value-added property tax exemption.

(2) Reserved.

~~(4) i.~~   ~~51 to 60~~ 81 to 100 high quality jobs are created or retained.

~~1. — Less than \$100,000 in qualifying investment.~~

~~♦ — Investment tax credit or insurance premium tax credit of up to 5 percent.~~

~~2. — \$100,000 to \$499,999 in qualifying investment.~~

~~♦ — Investment tax credit or insurance premium tax credit of up to 5 percent.~~

~~♦ — Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.~~

~~3. — \$500,000 to \$9,999,999 in qualifying investment.~~

~~♦ — Investment tax credit or insurance premium tax credit of up to 5 percent.~~

~~♦ — Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.~~

~~♦ — Research activities credit.~~

~~4. (1)    \$10 million or more in qualifying investment.~~

~~1.        ♦ Investment tax credit or insurance premium tax credit of up to 9 percent.~~

~~2.        ♦ Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.~~

~~3.        ♦ Research activities credit.~~

~~4.        ♦ Value-added property tax exemption.~~

~~(2) Reserved.~~

~~(5) i.~~   ~~61~~ 101 or more high quality jobs are created or retained.

~~1. — Less than \$100,000 in qualifying investment.~~

~~♦ — Investment tax credit or insurance premium tax credit of up to 5 percent.~~

~~2. — \$100,000 to \$499,999 in qualifying investment.~~

~~♦ — Investment tax credit or insurance premium tax credit of up to 5 percent.~~

~~♦ — Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.~~

~~3. — \$500,000 to \$9,999,999 in qualifying investment.~~

~~♦ — Investment tax credit or insurance premium tax credit of up to 5 percent.~~

~~♦ — Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.~~

~~♦ — Research activities credit.~~

~~4. (1)    \$10 million or more in qualifying investment.~~

~~1.        ♦ Investment tax credit or insurance premium tax credit of up to 10 percent.~~

~~2.        ♦ Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.~~

~~3.        ♦ Research activities credit.~~

~~4.        ♦ Value-added property tax exemption.~~

~~(2) Reserved.~~

ITEM 41.   Rescind and reserve subrule **68.4(9)**.

ITEM 42.   Amend **261—Chapter 68**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 15.326 to 15.336 as amended by 2009 Iowa Acts, Senate File 344.

ITEM 43. Adopt the following new rule 261—69.8(15E,83GA,SF344):

**261—69.8(15E,83GA,SF344) Applicability of LCG program after July 1, 2009.**

**69.8(1)** Effective July 1, 2009, the LCG program is rescinded by 2009 Iowa Acts, Senate File 344, section 9.

**69.8(2)** For awards made prior to July 1, 2009, the rules of 261—Chapter 69 shall govern for purposes of loan guarantee contract administration and closeout of contracts. A contract amendment is not allowable if the result of the amendment is to increase the benefits available.

This rule is intended to implement 2009 Iowa Acts, Senate File 344.

ITEM 44. Adopt the following new 261—Chapter 74:

CHAPTER 74

GROW IOWA VALUES FINANCIAL ASSISTANCE PROGRAM

**261—74.1(83GA,SF344) Purpose and administrative procedures.**

**74.1(1) Purpose.** The department shall establish and administer a grow Iowa values financial assistance program for purposes of providing financial assistance from the fund to applicants. The financial assistance shall be provided from moneys credited to the grow Iowa values fund and not otherwise obligated or allocated pursuant to 2009 Iowa Acts, Senate File 344.

**74.1(2) Program funding components.** The program shall consist of the following components:

- a. 130 percent wage component.
- b. 100 percent wage component.
- c. Entrepreneurial component.
- d. Infrastructure component.
- e. Value-added agriculture component.
- f. Disaster recovery component.

**74.1(3) Fiscal impact.** In making awards of financial assistance from the 130 percent wage component and the 100 percent wage component, the department shall calculate the fiscal impact ratio. In reviewing each application to determine the amount of financial assistance to award, the board shall consider the appropriateness of the award to the fiscal impact ratio of the project and to other factors deemed relevant by the board.

**74.1(4) Administrative procedures.** The grow Iowa values financial assistance program is subject to the requirements of the department's rules located in 261—Part VII, additional application requirements and procedures, and 261—Part VIII, legal and compliance. Part VII and Part VIII include standard definitions; standard program requirements; wage, benefit and investment requirements; application review and approval procedures; contracting; contract compliance and job counting; and annual reporting requirements.

**261—74.2(83GA,SF344) 130 percent wage component.**

**74.2(1) Eligibility.** In order to qualify for financial assistance under this component of the program, a business shall meet all of the following requirements:

a. The business shall create or retain jobs as part of a project, and the jobs created or retained shall meet one of the following requirements:

(1) If the business is creating jobs, the business shall demonstrate that the jobs will pay at least 100 percent of the qualifying wage threshold at the start of the project completion period, at least 130 percent of the qualifying wage threshold by the project completion date, and at least 130 percent of the qualifying wage threshold until the maintenance period completion date.

(2) If the business is retaining jobs, the business shall demonstrate that the jobs retained will pay at least 130 percent of the qualifying wage threshold throughout both the project completion period and the maintenance period.

b. The business shall provide a sufficient package of benefits to each employee holding a created or retained job.

c. The business shall demonstrate that the jobs created or retained will have a sufficient impact on state and local government revenues as determined by the department after calculating the fiscal impact ratio of the project.

d. The business shall not be a retail business or a business where entrance is limited by a cover charge or membership requirement.

**74.2(2) Sufficient benefits credit.** A business providing a sufficient package of benefits to each employee holding a created or retained job shall qualify for a credit against any of the 130 percent qualifying wage threshold requirement.

**261—74.3(83GA,SF344) 100 percent wage component.** In order to qualify for financial assistance under this component of the program, a business shall meet all of the following requirements:

**74.3(1)** The business shall create or retain jobs as part of a project, and the jobs created or retained shall meet one of the following qualifying wage thresholds:

a. If the business is creating jobs, the business shall demonstrate that the jobs created will pay at least 100 percent of the qualifying wage threshold at the start of the project completion period, by the project completion date, and until the maintenance period completion date.

b. If the business is retaining jobs, the business shall demonstrate that the jobs retained will pay at least 100 percent of the qualifying wage threshold throughout both the project completion period and the maintenance period.

**74.3(2)** The business shall provide a sufficient package of benefits to each employee holding a created or retained job.

**74.3(3)** The business shall demonstrate that the jobs created or retained will have a sufficient impact on state and local government revenues as determined by the department after calculating the fiscal impact ratio of the project.

**74.3(4)** The business shall not be a retail business or a business where entrance is limited by a cover charge or membership requirement.

**261—74.4(83GA,SF344) Entrepreneurial component.**

**74.4(1) Purpose.** The purpose of this component is to encourage the development of early-stage businesses in conjunction with the delivery of a financial assistance program.

**74.4(2) Definitions.** In addition to the standard definitions in 261—Chapter 173, the following definitions shall apply to this component:

*“Early-stage business”* means a business that has been competing in a particular industry for three years or less.

*“Eligible applicant”* means a business that has consulted with and obtained a letter of endorsement from either a business accelerator approved by the department or from an entrepreneurial development organization recognized by the department.

*“Eligible business”* means an early-stage business that is developing a new product or technology.

**74.4(3) Eligibility.** In order to qualify for financial assistance under the entrepreneurial component of the program, a business shall meet all of the following requirements:

a. In order to be eligible for assistance, the business, or proposed business, must be located in the state of Iowa.

b. The business shall be an early-stage business.

c. If the business is a sole proprietorship or a partnership, all applicable business owners must apply. If the business is a limited liability company, a limited liability partnership, or a corporation, the application must be submitted and signed by an individual who has been authorized by the business to do so.

d. The business owner or owners (or appropriate individual(s) in a limited liability company, limited liability partnership or corporation) must consult with and obtain a letter of endorsement from either a business accelerator approved by the department or from an entrepreneurial development organization recognized by the department.



e. The individual or business must have a business plan which details the business's growth strategy, management team, production/management plan, marketing plan, financial plan, and other standard elements of a business plan.

**74.4(4) *Local match not required.*** A business applying for financial assistance under the entrepreneurial component is eligible for financial assistance regardless of whether the business has received matching funds from a city or county.

**74.4(5) *Funding priorities.*** In awarding financial assistance under the entrepreneurial component of the program, the department and the board shall give priority to businesses in those sectors of the Iowa economy with the greatest potential for growth and expansion. Sectors having such potential include but are not limited to biotechnology, recyclable materials, software development, computer-related products, advanced materials, and advanced manufacturing.

**74.4(6) *Financial assistance.*** An applicant may apply to the department for financial assistance to assist with the applicant's early-stage business growth. The applicant may request up to \$250,000 for early-stage growth activities to be used for business expenses and to leverage conventional financing from commercial lenders or private investors. Assistance will generally be made in staged investments with amounts to be determined by company development, growth, and defined milestones. The assistance under this program is limited to 50 percent or less of the total original capitalization, if a new business, or total project costs, if an existing business. Funds may be used to purchase machinery, equipment, or software or for working capital needs or other business expenses deemed reasonable and appropriate by the department. Awards will be in the form of a loan, royalty agreement, or other form of an equity-like investment. A single recipient is limited to \$250,000 in total financial assistance.

**74.4(7) *Technical assistance.*** Applicants may apply for assistance in paying for consulting or other third-party technical assistance either in conjunction with the request for financial assistance or in a separate application. Applications submitted that are not in conjunction with a request for financial assistance must demonstrate financial need for the technical assistance. Financial need will be determined by the department based on review of the applicant's financial statements, narrative submitted by the applicant outlining the financial need, and other documentation as requested by the department. Awards will be in the form of a grant, loan, royalty agreement, or other form of an equity-like investment. Technical assistance of this nature is limited to no more than \$25,000 per applicant.

**74.4(8) *Application process.*** Applications must be submitted in the format required by the department. Applications, the business plan, and related material shall be submitted online or by mail to the department at the address listed in 261—subrule 175.2(7).

**74.4(9) *Review criteria.***

a. Applications will first be reviewed for completeness. If additional information is required, the program staff shall send the applicant notice to submit the additional needed information. The applicant shall submit the requested information within a reasonable time period in order to ensure further action on the request.

b. Applications will then be reviewed for content of the business plan and to evaluate the business's viability and potential for growth. The department may consult with the business accelerators or other knowledgeable agencies or individuals as a part of the review process.

c. The following items will be reviewed:

(1) Type of business.

1. Highest priority will be given to businesses in sectors of the Iowa economy with the greatest start-up and growth potential for Iowa, including but not limited to:

- Biotechnology (including drugs and pharmaceuticals and value-added agricultural products);
- Recyclable materials;
- Software development and computer-related products;
- Advanced materials; and
- Advanced manufacturing.

2. Assistance may be provided to industries other than those listed in paragraph "1" above; however, the applicant shall provide strong rationale regarding how that industry diversifies, strengthens

or otherwise enhances Iowa's economy. Eligibility may be established by an industry other than those listed if that industry can provide rationale regarding the industry's benefit to Iowa's economic base. Rationale that is provided will be reviewed by the department staff to determine eligibility as a targeted industry. Factors that will be considered in determining an industry's benefit to Iowa's economic base include:

- The majority of the products produced by the industry are exported out of Iowa;
- The inputs for the products produced in the industry are raw materials available in Iowa or are provided by Iowa suppliers;
- The goods produced by the industry diversify Iowa's economy;
- The goods produced by the industry resulted in, or will result in, a decrease in the importation of foreign-made goods into the United States;
- The industry shows potential for future growth; and
- The functions of the industry do not produce harmful effects for Iowa's natural environment.

Businesses engaged in retail sales, personal services, consulting, franchises, the provision of health care or other professional services, or the distribution of products or services will not be considered targeted industries and are not eligible for the program.

(2) Management team and management expertise. Factors considered for this criterion are whether the applicant(s) has a background (including education, training, work experience, and other factors) that will be helpful and useful in the business in question. The department will also consider the degree to which the applicant's background is fully documented.

(3) Business capitalization. Factors considered for this criterion are the original sources of financing for the business. Although all projects must have at least 50 percent of their financing from sources other than the entrepreneurial component, the department will give preference to those applications in which the other sources of financing are higher than 50 percent.

(4) Strength of business plan. The strength of the business plan is the most important factor in the evaluation of applications. Factors considered for this criterion are the quality of the business plan and how well it addresses all elements of the business, such as:

1. A description of the company and the overall industry;
2. The product and production plan;
3. The market, competition, and the marketing strategy;
4. The management team and business operation;
5. A well-defined project time line;
6. Patent issues (if applicable), critical risks and problems; and
7. Financial information and plan.

#### **261—74.5(83GA,SF344) Infrastructure component.**

**74.5(1) Eligibility.** In order to qualify for financial assistance under the infrastructure component of the program, a business or community shall be engaged in a physical infrastructure project. For purposes of this component, "physical infrastructure project" means a project that creates necessary infrastructure for economic success throughout Iowa, provides the foundation for the creation of jobs, and involves the investment of a substantial amount of capital. Physical infrastructure projects include but are not limited to projects involving any mode of transportation; public works and utilities such as sewer, water, power, or telecommunications; physical improvements that mitigate, prevent, or eliminate environmental contamination; and other similar projects deemed to be physical infrastructure by the department.

**74.5(2) Local match not required.** A business applying for financial assistance under the infrastructure component is eligible for financial assistance regardless of whether the business has received matching funds from a city or county.

#### **261—74.6(83GA,SF344) Value-added agriculture component.**

**74.6(1) Purpose.** The purpose of this component is to encourage the increased utilization of agricultural commodities produced in this state. The component shall assist in efforts to revitalize

rural regions of this state by committing resources to provide financial assistance to new or existing value-added production facilities.

**74.6(2) Definitions.** In addition to the standard definitions located in 261—Chapter 173, the following definitions apply to the value-added agriculture component:

*“Agricultural biomass industry”* means businesses that utilize agricultural commodity crops, agricultural by-products, or animal feedstock in the production of chemicals, protein products, or other high-value products.

*“Agricultural biotechnology industry”* means businesses that utilize scientifically enhanced plants or animals that can be raised by producers and used in the production of high-value products.

*“Agriculture”* means the science, art, and business of cultivating the soil, producing crops and raising livestock.

*“Alternative energy industry”* means businesses involved in the production of ethanol, including gasoline with a mixture of 70 percent or more ethanol, biodiesel, biomass, or hydrogen or in the production of wind energy.

*“Committee”* means the renewable fuels and coproducts advisory committee established pursuant to Iowa Code section 159A.4.

*“Coordinator”* means the administrative head of the office of renewable fuels and coproducts appointed by the department of agriculture and land stewardship as provided in Iowa Code section 159A.3.

*“Coproduct”* means a product other than a renewable fuel which at least in part is derived from the processing of agricultural commodities and which may include corn gluten feed, distillers grain, solubles, or a feed supplement, or can be used as livestock feed.

*“Farming”* means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock. “Farming” shall not include the production of timber, forest products, nursery products, or sod; and “farming” shall not include a contract where a processor or distributor of farm products or supplies provides spraying, harvesting or other farm services.

*“Fund”* means the renewable fuels and coproducts fund established pursuant to Iowa Code section 159A.7.

*“Innovative”* means a new or different agricultural product or a method of processing agricultural products which is an improvement over traditional methods in a new, different, or unusual way.

*“Livestock production operations”* means the production, feeding and marketing of livestock, poultry and aquaculture. “Livestock production operations” includes, but is not limited to, beef and dairy cattle, swine, sheep, goat, poultry, turkey and equine operations. “Livestock production operations” also includes nontraditional agricultural operations such as ostrich, fallow deer, rabbit, fish and other aquaculture.

*“Office”* means the office of renewable fuels and coproducts created pursuant to Iowa Code section 159A.3.

*“Organic products”* means Iowa-grown or Iowa-raised agricultural products as defined by 21—Chapter 47, Iowa organic program.

*“Person”* means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

*“Producer-owned, value-added business”* means a person who holds an equity interest in the agricultural business and is personally involved in the production of crops or livestock on a regular, continuous, and substantial basis.

*“Renewable fuel”* means an energy source at least in part derived from an organic compound, capable of powering machinery, including an engine or power plant. “Renewable fuel” includes but is not limited to ethanol-blended or soydiesel fuel.

*“Renewable fuels and coproducts activities”* means either of the following:

1. The research, development, production, promotion, marketing, or consumption of renewable fuels and coproducts.

2. The research, development, transfer, or use of technologies which directly or indirectly increases the supply or demand of renewable fuels and coproducts.

*“Rural region”* means any geographic area which is predominantly rural in nature, that is, having a relatively low population density and where agriculture is the predominant economic activity.

*“Soydiesel fuel”* means a fuel made of processed soybean oil which is mixed with diesel fuel, the mixture being a minimum of 20 percent processed soybean oil.

*“Value-added product”* means a product which, through a series of activities or processes, can be sold at a higher price than its original purchase price.

**74.6(3) Eligibility.** In order to qualify for financial assistance under the value-added agriculture component of the program, a business shall be a production facility engaged in the process of adding value to agricultural products. Projects considered eligible under this component include but are not limited to innovative agricultural products and processes, innovative and new renewable fuels, agricultural biotechnology, biomass and alternative energy production, and organic products and emerging markets. Financial assistance is available for project development as well as project creation.

*a. Innovative agricultural products and processes.* An application based on this component shall be considered if either of the following applies:

(1) The business will produce a product derived from an agricultural commodity, if the product is not commonly produced in Iowa from an agricultural commodity; or

(2) The business will utilize a process to produce a product derived from an agricultural commodity, if the process is not commonly used in Iowa to produce the product.

For purposes of this paragraph, a product is “not commonly produced” and a process is “not commonly used” if the product or process is not usually, generally, or ordinarily produced or processed in Iowa.

*b. Innovative and new renewable fuels.* Applications for renewable fuel and ethanol production shall be considered by the department for funding. Applications based on ethanol fuel production must meet the following criteria to be considered for funding:

(1) All fermentation, distillation, and dehydration of the ethanol occurs at the proposed facility.

(2) The ethanol produced at the proposed facility is at least 190 proof and is denatured. However, if the facility markets the ethanol for further refining, the facility must demonstrate that the refiner produces at least 190 proof ethanol from the ethanol purchased from the facility.

*c. Agricultural biotechnology, biomass and alternative energy.* Agricultural business facilities in the agricultural biotechnology industry, agricultural biomass industry, and alternative energy industry are eligible for program assistance.

*d. Organic products and emerging markets.* Facilities that add value to Iowa agricultural commodities through further processing and development of organic products and emerging markets are eligible for program assistance.

*e. Project development assistance.* The department, at its discretion, may also provide funding for project development related to targeted industries or proposed projects under this program. Feasibility studies and basic research are not eligible for assistance under this program.

*f. Project creation assistance.* This option is for projects that eventually could be eligible for funding within other value-added agriculture component funding areas.

(1) Any person is eligible to apply, except educational or research institutions. However, an educational or research institution may be a partner to an eligible applicant.

(2) The evaluation process will focus on the application of new technology and knowledge to agricultural products and processing and will be based upon the degree to which:

1. The resulting business has potential to increase utilization of agricultural commodities in this state; and

2. The resulting business has potential to increase value-added economic activities within this state.

**74.6(4) Ineligible projects.**

*a.* The department shall not provide financial assistance to support a value-added production facility if the facility or a person owning a controlling interest in the facility has, in the previous five

years, demonstrated a continuous and flagrant disregard for the health and safety of its employees or the quality of the environment.

b. The department shall not approve an application for assistance under this component to refinance an existing loan.

c. The department shall not directly award financial assistance to support an activity directly related to farming as defined in Iowa Code section 9H.1, including the establishment or operation of a livestock production operation, regardless of whether the activity is related to a renewable fuel production facility.

d. An applicant may not receive more than one award under this program for a single project. However, previously funded projects may receive an additional award(s) if the applicant demonstrates that the funding is to be used for a significant expansion of the project, a new project, or a project which results from previous project development assistance.

e. The board and the department shall not award financial assistance under the value-added agriculture component in an amount exceeding 50 percent of the total capital investment in a project.

**74.6(5) Review process.**

a. Applications will be reviewed by staff for completeness and eligibility. If the applicant had previously consulted with the coordinator in completion of the application, the department may refer the application to the coordinator for further feasibility studies if deemed necessary. Applications will be reviewed as described in 261—Chapter 175.

b. The department may consult with other state agencies regarding any possible future environmental, health, or safety issues linked to technology related to the biotechnology industry.

c. The department reserves the right to informally consult with external resources to assist in the evaluation of projects or to contract with outside consultants, in an amount not to exceed \$20,000 per project, for the same purpose.

**74.6(6) Evaluation criteria.** The department shall evaluate applications based on the following criteria:

a. *Feasibility.* The company must submit a feasible business plan which demonstrates managerial and technical expertise.

b. *Priority components.* The department will review the degree to which the proposed project meets one of the component elements which include:

- (1) Innovative agricultural products and processes.
- (2) Innovative and new renewable fuels.
- (3) Agricultural biotechnology, agricultural biomass and alternative energy.
- (4) Organic products and emerging markets.

c. *Utilization.* The department will review the degree to which the facility will add value to and increase the utilization of agricultural commodities in this state.

d. *Producer ownership.* The level of producer ownership will be given additional consideration.

e. *Rural region.* The department will review the extent to which the existing or proposed facility is located in a rural region of the state.

f. *Local match.* A business applying for financial assistance under the value-added agriculture component is eligible for financial assistance regardless of whether the business has received matching funds from a city or county.

g. *Need.* The department will review the level of need of the region where the existing facility is located or the proposed facility is to be located.

h. *Coproducts.* The department will review the degree to which the facility produces a coproduct which is marketed in the same locality as the facility.

i. *In-state suppliers.* The department will review the extent to which the facility utilizes in-state suppliers of inputs and feedstocks for processing and manufacturing.

j. *Sales.* The department will review the extent to which the facility sells its products outside the state.

**261—74.7(83GA,SF344) Disaster recovery component.**

**74.7(1) Eligibility.** In order to qualify for financial assistance under the disaster recovery component of the program, a business shall meet all of the following conditions:

- a.* The business is located in an area declared a disaster area by a federal official.
- b.* The business has sustained substantial physical damage and has closed as the result of a natural disaster. For purposes of this rule, “sustained substantial physical damage” means damage of any origin sustained by a structure or the machinery and equipment contained within whereby the cost of restoring the structure to its before-damaged condition or replacing the machinery and equipment would exceed 50 percent of the market value of the structure or machinery and equipment before the damage occurred. If the business is located in a multitenant building, the market value of the structure before the damage occurred may be prorated based on the percentage of space within the building which the business occupies.
- c.* The business must commit to bringing its employment level up, within six months of the award date, to at least 90 percent of its base employment prior to the closure of the business due to the natural disaster in a presidentially declared disaster area. The business shall submit payroll records to establish the business’s employment base prior to the date of the presidential disaster declaration.
- d.* The business must commit to paying wages, within six months of the award date, that are no less than the wages paid prior to the closure of the business due to the natural disaster in a presidentially declared disaster area. The business shall submit payroll records to establish the wages that were paid prior to the date of the presidential disaster declaration.
- e.* The business must apply for assistance within 12 months of the date of the declaration of disaster by a federal official.

**74.7(2) Local match not required.** A business applying for financial assistance under the disaster recovery component is eligible for financial assistance regardless of whether the business has received matching funds from a city or county.

These rules are intended to implement 2009 Iowa Acts, Senate File 344, section 3.

ITEM 45. Adopt the following new 261—Chapter 75:

CHAPTER 75  
OPPORTUNITIES AND THREATS PROGRAM

**261—75.1(83GA,SF344) Purpose.** The purpose of the opportunities and threats program is to fund projects that present a unique opportunity for economic development in the state of Iowa or projects that address a situation constituting a threat to continued economic prosperity in Iowa.

**261—75.2(83GA,SF344) Administrative procedures.** The opportunities and threats program is subject to the requirements of the department’s rules located in 261—Part VII, additional application requirements and procedures, and 261—Part VIII, legal and compliance. Part VII and Part VIII include standard definitions, standard program requirements, application review and approval procedures, contracting, contract compliance and job counting, and annual reporting requirements.

**261—75.3(83GA,SF344) Eligible applicants.** An eligible applicant may be a business, an individual, a development corporation, a nonprofit organization, a council of government as defined in Iowa Code section 28H.1, or a political subdivision in the state of Iowa.

**261—75.4(83GA,SF344) Review criteria.** When applications are reviewed, the following shall apply:

**75.4(1)** A project shall not be eligible for financial assistance under another state program. If a project is eligible for assistance under another state program, then the project shall not be eligible for funding under this program.

**75.4(2)** The project must represent a unique economic development opportunity or involve a unique threat to economic development in the state of Iowa.

**75.4(3)** An applicant must demonstrate that any financial assistance received under this program leverages additional public or private funds.

**75.4(4)** An applicant must demonstrate that the project will lead to a positive economic impact for the state of Iowa.

**75.4(5)** An applicant must demonstrate financial need for assistance. Financial need may be demonstrated with financial statements, narrative statements outlining the financial need, and any other documentation that demonstrates financial need or that is requested by the department.

**261—75.5(83GA,SF344) Award criteria.** An award made under this program shall not exceed 50 percent of the total project cost. The minimum award amount is \$25,000. The maximum award amount is \$250,000 per fiscal year. The board may award an amount in excess of \$250,000 if that award is made over multiple fiscal years and the amount committed for each fiscal year within the multiyear award does not exceed \$250,000.

These rules are intended to implement 2009 Iowa Acts, Senate File 344, section 4.

ITEM 46. Amend rules 261—165.1(15G) to 261—165.3(15G) as follows:

**261—165.1(15G,83GA,SF344) Purpose.** The purpose of the grow Iowa values fund is to provide financial assistance for business incentives, marketing efforts, and other programs and activities designed to spur the economy and improve the quality of life of Iowans. Moneys in the grow Iowa values fund provide financial assistance for ~~programs administered by the department~~ allowable departmental purposes; for state parks pursuant to a plan from the department of natural resources (DNR); for the cultural trust fund; for workforce training and economic development funds of the community colleges; for economic development region initiatives; and for financial assistance to the regents for the University of Northern Iowa, Iowa State University, the University of Iowa, a bioscience organization, and private universities. The rules in this chapter apply to financial assistance awarded from the grow Iowa values fund by ~~the department and~~ the board.

**261—165.2(15G,83GA,SF344) Definitions.** The definitions located in 261—Chapter 173 apply to this chapter.

**261—165.3(15G,83GA,SF344) Grow Iowa values fund (2005 2009).** The grow Iowa values fund (2005 2009) refers to the fund established on July 1, 2005, ~~pursuant to Iowa Code Supplement section 15G.111(2) and (3) by Iowa Code chapter 15G as amended by 2009 Iowa Acts, Senate File 344.~~ The fund includes moneys appropriated to the department by the general assembly for the fund, ~~interest earned, repayments, and recaptures of loans and grants~~ payments of interest, repayments of moneys loaned, and recaptures of grants and loans made pursuant to the fund, and all moneys accruing to the department from the department's administration of preexisting programs. Pursuant to Iowa Code section ~~15G.108~~ 15G.111 as amended by 2009 Iowa Acts, Senate File 344, section 2, the fund is under the control of and administered by the department.

ITEM 47. Amend the introductory paragraphs of rule 261—165.4(15G) as follows:

**261—165.4(15G,83GA,SF344) Allocation of annual appropriation for grow Iowa values fund moneys—\$50M.** Pursuant to Iowa Code section ~~15G.110~~ 15G.111 as amended by 2009 Iowa Acts, Senate File 344, section 2, \$50 million is appropriated from the grow Iowa values fund to the department each fiscal year for the fiscal period beginning July 1, ~~2005 2009,~~ and ending June 30, 2015. If the full \$50 million is appropriated in a fiscal year, the fund moneys are allocated as described below. If less than \$50 million is appropriated in a fiscal year, then the amount available will be reduced on a pro-rata basis. The fund moneys are allocated as follows:

~~\$35M (except as set forth in “1” to “3” below) For programs administered by the department, marketing and other specified uses.~~

~~1. For each fiscal year beginning July 1, 2005, and ending June 30, 2006, the amount available is \$35M.~~

~~2. For each fiscal year beginning July 1, 2006, and ending June 30, 2007, the amount available is \$33M.~~

~~3. For each fiscal year beginning July 1, 2007, and ending June 30, 2009, the amount available is \$30M.~~

~~4. For each fiscal year beginning July 1, 2009, and ending June 30, 2015, the amount available is \$32M.~~

1. \$32M—For:

• Departmental administrative costs,

• Awards of financial assistance from the grow Iowa values financial assistance program established in 2009 Iowa Acts, Senate File 344, section 3,

• Marketing,

• A statewide labor shed study,

• Responding to opportunities and threats,

• Technical assistance and information technology,

• Guarantees in existence as of July 1, 2009, under the loan and credit guarantee program,

• Renewable fuels infrastructure program for FY 2010 (\$2M), and

• \$1M for FY 2010 for research and development related to renewable energy pursuant to 2009

Iowa Acts, House File 817.

2. \$3M—For the fiscal period beginning July 1, 2007, and ending June 30, 2015, this amount is available for commercialization services described in Iowa Code Supplement section 15.411(2) and (3). For deposit in the innovation and commercialization fund created by 2009 Iowa Acts, Senate File 142.

~~\$ 2M—For the fiscal period beginning July 1, 2006, and ending June 30, 2009, this amount is available for deposit in the renewable fuel infrastructure fund as provided in Iowa Code section 15G.205.~~

3. \$5M—To the state board of regents for institutions of higher learning under the control of the state board of regents, for specific activities.

4. \$1M—For projects in targeted state parks, state banner parks and destination parks.

5. \$1M—For the cultural trust fund administered by the department of cultural affairs.

6. \$7M—For workforce training and economic development funds of the community colleges.

7. \$1M—For economic development region initiatives.

ITEM 48. Rescind subrule 165.4(1) and adopt the following **new** subrule in lieu thereof:

**165.4(1) Board allocation of appropriation to fund for departmental purposes—\$32M.** Of the annual appropriation to the fund, the board may allocate \$32 million (or a pro-rata amount if the annual appropriation to the fund is less than \$50 million) for the following activities:

a. Departmental administrative costs. The board may allocate a portion of the funds to cover administrative costs. No more than \$600,000 may be allocated for administrative costs.

b. Awards of financial assistance from the grow Iowa values financial assistance program established in 2009 Iowa Acts, Senate File 344, section 3. The grow Iowa values financial assistance fund consists of six components. The rules for the six components may be found in 261—Chapter 74.

c. Marketing. The board may allocate a portion of the amount available for departmental purposes for marketing proposals pursuant to Iowa Code section 15G.109.

d. Statewide labor shed study. The board may allocate a portion of the funds available to authorize a statewide labor shed study in coordination with the department of workforce development.

e. Responding to opportunities and threats. A portion of the funds may be allocated by the board to respond to opportunities and threats. The rules for this activity are found in 261—Chapter 75.

f. Technical assistance and information technology. The board may allocate a portion of the funds available for procuring technical assistance from either the public or private sector and for information technology purposes.



g. Loan guarantees in existence as of July 1, 2009, under the loan and credit guarantee program.  
h. Renewable fuels infrastructure fund established in Iowa Code section 15G.205. For fiscal year 2010, \$2 million shall be allocated to the renewable fuels infrastructure fund established in Iowa Code section 15G.205.

i. Renewable energy research and development. For fiscal year 2010, \$1 million for research and development related to renewable energy pursuant to 2009 Iowa Acts, House File 817.

ITEM 49. Amend subrules 165.4(2) to 165.4(6) as follows:

**165.4(2) *Funding to the state board of regents for institutions of higher learning under the control of the state board of regents for specific activities—\$5M.***

a. *Use of funds.* Five million dollars (or a pro-rata amount if the annual appropriation to the fund is less than \$50 million) is available for financial assistance to institutions of higher learning under the control of the state board of regents (Iowa State University (ISU), University of Iowa (U of I), University of Northern Iowa (UNI)). These funds must be used for capacity building infrastructure in areas related to technology commercialization, for marketing and business development efforts in areas related to technology commercialization, entrepreneurship, and business growth, and for infrastructure projects and programs needed to assist in the implementation of activities under Iowa Code chapter 262B.

(1) and (2) No change.

b. No change.

c. *Board action.* The board shall review the annual report from the state board of regents and accept, or request additional information regarding, the use of the \$5 million allocation from the grow Iowa values fund to the state board of regents. The board will include in its annual grow Iowa values fund report that is required to be submitted by January ~~15~~ 31 each year pursuant to Iowa Code section 15.104(9) an evaluation of the annual report received from the state board of regents.

**165.4(3) *Funding for projects in targeted state parks, state banner parks and destination parks—\$1M.***

a. *Use of funds.* One million dollars (or a pro-rata amount if the annual appropriation to the fund is less than \$50 million) is available for purposes of providing financial assistance for projects in targeted state parks, state banner parks, and destination parks. For purposes of this subrule, “state banner park” means a park with multiple uses and which focuses on the economic development benefits of a community or area of the state.

b. No change.

c. *Board action.* The board shall approve, ~~or deny,~~ modify, or defer proposed expenditures under the proposed plan for use of the \$1 million allocation from the grow Iowa values fund for state parks. Upon approval of the plan, a contract shall be executed between the department and the department of natural resources to provide financial assistance to the department of natural resources for support of state parks, state banner parks, and destination parks.

**165.4(4) *Funding for the cultural trust fund administered by the department of cultural affairs—\$1M.*** One million dollars (or a pro-rata amount if the annual appropriation to the fund is less than \$50 million) ~~is appropriated to the office of the treasurer of state shall be allocated by the department~~ for deposit in the Iowa cultural trust fund created in Iowa Code section 303A.4 and administered by the department of cultural affairs. The department shall transfer the moneys allocated from the grow Iowa values fund for this purpose to the treasurer of state.

**165.4(5) *Funding for workforce training and economic development funds of the community colleges—\$7M.*** Seven million dollars (or a pro-rata amount if the annual appropriation to the fund is less than \$50 million) is allocated for deposit into the workforce training and economic development funds of the community colleges created pursuant to Iowa Code section 260C.18A. The department shall transfer the moneys allocated from the grow Iowa values fund to the workforce training and economic development fund.

**165.4(6) *Funding for economic development region initiatives—\$1M.***

*a. Funds available.* One million dollars (or a pro-rata amount if the annual appropriation to the fund is less than \$50 million) is available for providing assistance to economic development regions. These moneys are allocated as follows:

\$350,000—To ISU, for establishment of small business development centers in certain areas of the state.

\$50,000—To the department, for assistance to Iowa business resource centers authorized in ~~2007 Iowa Code section 15G.111(6)(c).~~ Iowa Code section 15G.111 as amended by 2009 Iowa Acts, Senate File 344, section 2.

\$600,000—To the department, for financial assistance to economic development regions, for the establishment of a regional economic development revenue-sharing pilot project.

*b. Allocation of \$600,000 for economic development region initiatives.* The ~~department board~~ shall annually allocate the \$600,000 available under this subrule for economic development region initiatives. ~~The department may adjust the allocation during the year if it determines that it is necessary to do so to ensure the availability of funds in those categories in which a greater need is demonstrated to exist.~~ The \$600,000 is available for the following:

(1) to (3) No change.

ITEM 50. Adopt the following **new** rules 261—165.5(15G,83GA,SF344) and 261—165.6(15G,83GA,SF344):

**261—165.5(15G,83GA,SF344) Board allocation of other moneys in fund.**

**165.5(1) *Allocation for administrative and operations costs.*** In addition to the moneys appropriated to the fund for departmental purposes pursuant to Iowa Code section 15G.111 as amended by 2009 Iowa Acts, Senate File 344, section 2, the board may allocate other moneys credited to the fund pursuant to Iowa Code section 15G.111 as amended by 2009 Iowa Acts, Senate File 344, section 2, for department administrative and operations costs. The board may allocate a portion of the moneys accruing to the fund resulting from preexisting programs that were repealed by 2009 Iowa Acts, Senate File 344: CEBA, EVA, VAAPFAP, PIAP, and LCG. Funds may be allocated by the board in an amount necessary to fund administrative and operations costs of the department. This allocation is in addition to any allocations the board makes pursuant to subrule 165.4(1).

**165.5(2) *Allocation of other moneys for fund purposes.*** The board may allocate for other allowable fund purposes a portion of the moneys accruing to the fund resulting from preexisting programs that were repealed by 2009 Iowa Acts, Senate File 344: CEBA, EVA, VAAPFAP, PIAP, and LCG. This allocation is in addition to any allocations the board makes pursuant to subrule 165.4(1).

**261—165.6(15G,83GA,SF344) Annual fiscal year allocations by board.**

**165.6(1) *Annual fiscal year allocations.*** At the first scheduled meeting of the board after the start of a fiscal year, the board shall take action on each of the following:

*a. Board allocation of appropriation to fund for departmental purposes—\$32M.* The board shall review the department's recommendation for the annual allocation of the \$32 million (or of such lesser amount if the annual appropriation to the fund is less than \$50 million) for departmental purposes described in subrule 165.4(1).

*b. Board allocation of other moneys in the fund.* The board shall review the department's recommendation for the annual allocation of other moneys in the fund as described in rule 261—165.5(15G,83GA,SF344).

*c. Board allocation among the six components of the grow Iowa values financial assistance program.* The board shall review the department's recommendation for the annual allocation among the six components of the grow Iowa values financial assistance program described in 261—Chapter 74.

**165.6(2) *Reallocation during fiscal year.*** The board may adjust each of the allocations described in subrule 165.6(1) during the fiscal year as necessary.

ITEM 51. Amend **261—Chapter 165**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 15G and Iowa Code Supplement section ~~15G.111(2) and (3)~~ as amended by 2009 Iowa Acts, Senate File 344.

ITEM 52. Amend rule 261—173.1(15) as follows:

**261—173.1(15,15G,83GA,SF344) Applicability.**

**173.1(1) Current programs.** ~~This~~ Effective July 1, 2009, this chapter shall apply to the following programs and ~~projects funding sources~~:

1. ~~—VAAPFAP (value-added agricultural products and processes financial assistance program) (261—Chapter 57).~~

2. ~~—CEBA (community economic betterment account) program (261—Chapter 53).~~

3. ~~—EVA (entrepreneurial ventures assistance) program (261—Chapter 60).~~

4. ~~—TSBFAP (targeted small business financial assistance program) (261—Chapter 55).~~

5. ~~—PIAP (physical infrastructure assistance program) (261—Chapter 61).~~

6. ~~—Brownfield redevelopment program (261—Chapter 65).~~

7. ~~—EDSA (economic development set-aside) program (261—Chapter 23).~~

8. ~~—EZ (enterprise zone) program (261—Chapter 59).~~

9. ~~—HQJC (high quality job creation) program (261—Chapter 68).~~

10. ~~—LCG (loan and credit guarantee) program (261—Chapter 69).~~

11. ~~Projects approved by the grow Iowa values board that received direct financial assistance from the IVF(FES) fund during the period July 1, 2003, through June 16, 2004.~~

12. ~~Projects approved under the NCIP (new capital investment program) (261—Chapter 64).~~

13. ~~Projects approved under the NJIP (new jobs and income program) (261—Chapter 58).~~

a. EDSA (economic development set-aside) program (261—Chapter 23).

b. EZ (enterprise zone) program (261—Chapter 59).

c. HQJP (high quality jobs program) (261—Chapter 68).

d. Grow Iowa values fund—IVF(2009).

**173.1(2) Prior programs—transition provision.** The programs listed in paragraphs “a” to “f” were repealed by 2009 Iowa Acts, Senate File 344, effective July 1, 2009. The rules in effect on June 30, 2009, under this chapter shall apply to the following prior programs until such time as the contracts for these prior programs are closed by the department:

a. VAAPFAP (value-added agricultural products and processes financial assistance program) (261—Chapter 57).

b. CEBA (community economic betterment account) program (261—Chapter 53).

c. EVA (entrepreneurial ventures assistance) program (261—Chapter 60).

d. TSBFAP (targeted small business financial assistance program) (261—Chapter 55).

e. PIAP (physical infrastructure assistance program) (261—Chapter 61).

f. LCG (loan and credit guarantee) program (261—Chapter 69).

ITEM 53. Amend rule 261—173.2(15), parenthetical implementation statute, as follows:

**261—173.2(15,15G,83GA,SF344) Definitions.**

ITEM 54. Amend rule **261—173.2(15)**, definitions of “Agricultural products advisory council,” “Benefits,” “Business’s base employment,” “Created job,” “Employee,” “Grant,” “IVF,” “Loan,” “Maintenance date,” “Project completion,” “Project completion date” and “Retained job,” as follows:

“*Agricultural products advisory council*” or “*APAC*” means the council which is composed of five members appointed by the secretary of agriculture and five members appointed by the director of the Iowa department of economic development who are experienced in marketing or exporting agricultural commodities or products, financing the export of agricultural commodities or products, or adding value to and the processing of agricultural products as further described in Iowa Code section 15.203 and which reviews VAAPFAP value-added agriculture component applications and makes recommendations to the ~~director and the board~~.

*“Benefits”* means all of the following nonwage compensation provided to an employee: medical and dental insurance plans, pension, retirement, and profit-sharing plans, child care services, life insurance coverage, vision insurance ~~plan~~ coverage, and disability insurance coverage.

*“~~Business’s base~~ Base employment level”* means the number of ~~jobs that the business and the department have established as the job base for a project~~ full-time equivalent positions at a business, as established by the department and a business using the business’s payroll records, as of the date a business applies for financial assistance. The number of jobs the business has pledged to create and retain shall be in addition to the ~~business’s base employment~~ base level.

*“Created job”* means a new, permanent, full-time equivalent (FTE) position ~~positions~~ position added to a business’s payroll, ~~over and above~~ in excess of the ~~business’s base employment~~ level at the time of application for assistance.

*“Employee”* means:

~~1.~~ 1. An individual filling a full-time position that is part of the payroll of the business receiving financial assistance from any of the programs identified in rule 261—173.1(15, 15G, 83GA, SF344).

~~2.~~ 2. A business’s leased or contract employee, provided all of the following elements are satisfied:

~~(1)~~ 1. The business receiving the state financial assistance has a legally binding contract with a third-party provider to provide the leased or contract employee.

~~(2)~~ 2. The contract between the third-party provider and the business specifically requires the third-party provider to pay the wages and benefits at the levels required and for the time period required by the department as conditions of the financial assistance award to the business.

~~(3)~~ 3. The contract between the third-party provider and the business specifically requires the third-party provider to submit payroll records to the department, in form and content and at the frequency found acceptable to the department, for purposes of verifying that the business’s job creation/retention and benefit requirements are being met.

~~(4)~~ 4. The contract between the third-party provider and the business specifically authorizes the department, or its authorized representatives, to access records related to the funded project.

~~(5)~~ 5. The business receiving the state financial assistance agrees to be contractually liable to the department for the performance or nonperformance of the third-party provider.

*“Grant”* means an award of assistance with the expectation that, with the fulfillment of the conditions, terms and obligations of the award contract with the department for the project, repayment of funds is not required.

*“IVF(2009)”* means the grow Iowa values fund established by Iowa Code section 15G.111 as amended by 2009 Iowa Acts, Senate File 344, section 2.

*“Loan”* means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the award. A “deferred loan” is one for which the payment for principal, interest, or both, is not required for some specified period. A “forgivable loan” is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions. A “float loan” means a short-term loan (maximum of 30 months) from obligated but unexpended IVF(2009) funds.

*“Maintenance period completion date”* means the date on which the maintenance period ends. It is the specific time period date established by the department past the project completion date through which the recipient shall maintain the project, the created jobs, and the retained jobs.

*“Project completion,”* for the EZ and ~~HQJC~~ HQJP tax credit programs, for purposes of reporting to the Iowa department of revenue that a project has been completed, means:

1. and 2. No change.

*“Project completion date”* means the specific date established by the department by which ~~the business~~ a recipient of financial assistance shall have completed all pledged project activities, met its job creation and job retention obligations, and otherwise satisfied the terms and obligations of the contract with the department for a project. (See rule 261—subrule 187.3(3) 187.3(15) for a listing of the duration of the project completion period and maintenance period for IDED’s job creation and tax credit programs.)

“Retained job” means existing a full-time equivalent permanent positions, position in existence at the time of application, kept in continuous employment by the business that are at risk of being eliminated if the project does not proceed as planned an employer applies for financial assistance which remains continuously filled or authorized to be filled as soon as possible and which is at risk of elimination if the project for which the employer is seeking assistance does not proceed.

ITEM 55. Rescind the definitions of “Average county wage,” “Average regional wage,” “Benefit value,” “Brownfield advisory council,” “FES,” “Float loan,” “IVF(FES)” and “IVF (2005)” in rule **261—173.2(15,15G,83GA,SF344)**.

ITEM 56. Adopt the following **new** definitions of “County wage,” “Financial assistance,” “Fiscal impact ratio,” “ICF,” “Maintenance period,” “Project completion period,” “Project initiation,” “Qualifying wage threshold,” “Regional wage,” “Sufficient benefits,” “Sufficient benefits credit” and “Technology commercialization committee” in rule **261—173.2(15,15G,83GA,SF344)**:

“*County wage*” means the county wage calculation performed by the department pursuant to 2009 Iowa Acts, Senate File 344, section 3.

“*Financial assistance*” means assistance in the form of grants, loans, forgivable loans, float loans, equity-like investment, and royalty payments and other forms deemed appropriate by the board, consistent with Iowa law.

“*Fiscal impact ratio*” or “*FIR*” means a ratio calculated by estimating the amount of taxes to be received by the state from a business and dividing the estimate by the estimated cost to the state of providing certain financial incentives to the business, reflecting a ten-year period of taxation and incentives and expressed in terms of current dollars. “Fiscal impact ratio” does not include taxes received by political subdivisions.

“*ICF*” means the innovation and commercialization fund established by 2009 Iowa Acts, Senate File 142.

“*Maintenance period*” means the period of time between the project completion date and the maintenance period completion date.

“*Project completion period*” means the period of time between the date financial assistance is awarded (the “award date”) and the project completion date.

“*Project initiation*” means, for all programs and funding sources except EDSA, any one of the following:

1. The start of construction of new or expanded buildings;
2. The start of rehabilitation of existing buildings;
3. The purchase or leasing of existing buildings; or
4. The installation of new machinery and equipment or new computers to be used in the operation

of the business’s project.

The purchase of land or signing an option to purchase land or earth moving or other site development activities not involving actual building construction, expansion or rehabilitation shall not constitute project initiation. The costs of any land purchase and site development work incurred prior to the award are not eligible qualifying investment expenses.

“*Qualifying wage threshold*” means the county wage or the regional wage, as calculated by the department, whichever is lower.

“*Regional wage*” means the regional wage calculation performed by the department pursuant to 2009 Iowa Acts, Senate File 344, section 3.

“*Sufficient benefits*” means that the employer applying for financial assistance offers to each full-time equivalent permanent position a benefits package that meets one of the following:

1. The employer pays 80 percent of the premium costs for a standard medical and dental plan for single employee coverage with a \$750 maximum deductible; or
2. The employer pays 50 percent of the premium costs for a standard medical and dental plan for employee family coverage with a \$1,500 maximum deductible; or
3. The employer provides medical coverage and pays the monetary equivalent of paragraph “1” or “2” above in supplemental employee benefits. Benefits counted toward monetary equivalent could

include medical coverage, dental coverage, vision insurance, life insurance, pension, retirement (401k), profit sharing, disability insurance, child care services, and other nonwage compensation approved by the board.

*“Sufficient benefits credit”* means a benefits credit for which a business qualifies if the business provides sufficient benefits to each employee holding a created or retained job. This credit can be applied against the 130 percent qualifying wage requirement. The credit shall be calculated and applied as follows:

1. By multiplying the qualifying wage threshold of the county in which the business is located by one and three-tenths.
2. By multiplying the result of paragraph “1” by one-tenth.
3. The amount of the result of paragraph “2” shall be credited against the amount of the 130 percent qualifying wage threshold requirement that the business is required to meet.
4. The credit shall not be applied against the 100 percent qualifying wage threshold requirement.

*“Technology commercialization committee”* means the committee established by the board pursuant to Iowa Code section 15.116 to evaluate and approve funding for projects and programs referred to in Iowa Code section 15G.111 as amended by 2009 Iowa Acts, Senate File 344, section 2.

ITEM 57. Amend **261—Chapter 173**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 15, 15G as amended by 2009 Iowa Acts, Senate File 344, and 17A.

ITEM 58. Amend rules 261—174.1(15) and 261—174.2(15) as follows:

**261—174.1(15,15G,83GA,SF344) Applicability.** This chapter is applicable to the programs identified in 261—173.1(15,15G,83GA,SF344).

**261—174.2(15,15G,83GA,SF344) Quarterly Annual qualifying wage threshold calculations.**

**174.2(1)** The department will update ~~all program the county and regional qualifying wage thresholds on July 1, October 1, January 1, and April 1 of annually~~ each fiscal year using the most recent four quarters of available wage data from the Iowa workforce development department, and these thresholds will become effective on July 1 of each fiscal year.

**174.2(2) Transition period** Effective date of county wage and regional wage qualifying thresholds. Businesses that submit a project review form to the department will be subject to county and regional qualifying wage thresholds in effect on the date the department receives the project review form, provided that the business’s application is received and approved within six months of the date the project review form was received by the department. If more than six months have elapsed, the business will be subject to the wage thresholds in effect on the date the department receives the business’s completed application.

ITEM 59. Amend rule **261—174.3(15)**, introductory paragraph, as follows:

**261—174.3(15,15G,83GA,SF344) Qualifying wage threshold requirements—prior to July 1, 2009.** For each financial assistance and tax credit program administered by the department, there are minimum wage threshold requirements that must be met in order for the project to be considered to receive an award. The qualifying wage threshold varies from program to program and according to funding source. This rule describes the qualifying wage thresholds, by funding source and by program, which a project must meet. 2009 Iowa Acts, Senate File 344, became effective on July 1, 2009. 2009 Iowa Acts, Senate File 344, repealed a number of programs administered by the department, established IVF(2009), and transferred moneys from prior programs to the IVF(2009). This resulted in a simplification of state financial assistance programs. The following subrules regarding qualifying wage thresholds apply to awards made on or before June 30, 2009. This rule shall apply to the prior programs and funding sources until such time as the contracts for these prior programs are closed by the department.

ITEM 60. Renumber rule **261—174.7(15)** as **261—174.10(15)**.

ITEM 61. Renumber rules **261—174.5(15)** and **261—174.6(15)** as **261—174.7(15)** and **261—174.8(15)**.

ITEM 62. Adopt the following **new** rules 261—174.5(15G,83GA,SF344) and 261—174.6(15E,15G,83GA,SF344):

**261—174.5(15G,83GA,SF344) Qualifying wage threshold requirements—on or after July 1, 2009.**

**174.5(1)** Projects that are funded through one of the IVF(2009) financial assistance program components shall meet the following qualifying wage thresholds:

Funding Source: IVF(2009) Grow Iowa Values Financial Assistance Program		Qualifying Wage Threshold Requirement	Credit for sufficient benefits?
Program Component:	130% wage component	130% of county wage or regional wage, whichever is lower	Yes
	100% wage component	100% of county wage or regional wage, whichever is lower	No
	Entrepreneurial component	No qualifying wage threshold	Not applicable
	Infrastructure component	No qualifying wage threshold	Not applicable
	Value-added agriculture component	No qualifying wage threshold	Not applicable
	Disaster recovery component	No qualifying wage threshold	Not applicable

**174.5(2)** HQJP and EZ. Projects funded through HQJP or EZ tax credit program shall meet the following qualifying wage thresholds:

Tax Credit Program	Qualifying Wage Threshold Requirement	Credit for sufficient benefits?
HQJP	130% of county wage or regional wage, whichever is lower	Yes
EZ	90% of county wage or regional wage, whichever is lower	No

**174.5(3)** EDSA. Projects that are funded with EDSA moneys shall meet the following wage threshold:

Program Source: CDBG	Qualifying Wage Threshold Requirement	Credit for sufficient benefits?
EDSA	90% of county wage or regional wage, whichever is lower	No

**174.5(4)** Higher wage threshold applies if multiple programs are used in a project. Notwithstanding the qualifying wage threshold requirements for each program, if a business is a recipient of financial assistance from more than one program administered by the department and the qualifying wage thresholds are not the same, the business shall be required to pay the higher qualifying wage for the project.

**261—174.6(15E,15G,83GA,SF344) Wage waiver requests—130 percent wage component and HQJP.**

**174.6(1)** *Waiver of qualifying wage threshold—130 percent wage component.* An applicant may apply to the board for a waiver of the qualifying wage threshold requirements of the 130 percent wage component of the grow Iowa values financial assistance program. The procedures to follow to request such a waiver are described in rule 261—175.5(15,15G,83GA,SF344).

**174.6(2)** *Waiver of HQJP qualifying wage threshold.* A community may apply to the board for a project-specific waiver from the qualifying wage threshold requirement in order to seek tax incentives

for an eligible business. The procedures to follow to request such a waiver are described in rule 261—175.5(15,15G,83GA,SF344).

ITEM 63. Amend renumbered rule 261—174.7(15) as follows:

**261—174.7(15,15G,83GA,SF344) Job obligations.** Jobs that will be created or retained as a result of a project’s receiving state or federal financial assistance or tax credit benefits from the department shall meet the qualifying wage threshold requirements. Jobs that do not meet the qualifying wage threshold requirements will not be counted toward a business’s job creation or job retention obligations outlined in the contract between the department and the business. A business’s job obligations shall include the business’s ~~employment~~ base employment level and the number of new jobs required to be created above the base employment ~~figure~~ level.

ITEM 64. Amend renumbered rule 261—174.8(15), introductory paragraph, as follows:

**261—174.8(15,15G,83GA,SF344) Benefit requirements—prior to July 1, 2009.** ~~To be eligible to receive state financial assistance or tax credit benefits, applicants shall meet the following benefit requirements:~~ This rule regarding benefit requirements applies to awards made on or before June 30, 2009. This rule shall apply to the prior programs and funding sources until such time as the contracts for these prior programs are closed by the department.

ITEM 65. Adopt the following new rule 261—174.9(15,15G,83GA,SF344):

**261—174.9(15,15G,83GA,SF344) Sufficient benefits requirement—on or after July 1, 2009.** To be eligible to receive state financial assistance or tax credit benefits, applicants shall offer sufficient benefits to each FTE permanent position. “Sufficient benefits” and “sufficient benefits credit” are defined in rule 261—173.2(15,15G,83GA,SF344). An employer may select one of the following options to meet the sufficient benefits requirement:

Option 1 80% Single Coverage	Option 2 50% Family Coverage	Option 3 Monetary Equivalent	
Pay 80% of premium costs for a standard medical and dental plan, single coverage.  \$750 maximum deductible	Pay 50% of premium costs for a standard medical and dental plan, family coverage.  \$1,500 maximum deductible	Provide medical and pay the monetary equivalent of Option 1 or Option 2 in supplemental employee benefits.	Benefits Counted Toward Monetary Equivalent <ul style="list-style-type: none"> <li>• Medical coverage</li> <li>• Dental coverage</li> <li>• Vision insurance</li> <li>• Life insurance</li> <li>• Pension</li> <li>• 401(k) (company’s average contribution)</li> <li>• Short-/long-term disability insurance</li> <li>• Child care services</li> <li>• Other nonwage compensation</li> </ul>

ITEM 66. Amend renumbered rule 261—174.10(15), parenthetical implementation statute, as follows:

**261—174.10(15,15G,83GA,SF344) Capital investment, qualifying investment for tax credit programs, and investment qualifying for tax credits.**

ITEM 67. Amend renumbered subrule 174.10(2) as follows:

**174.10(2) Qualifying investment for tax credit programs.** For the tax credit programs (EZ and ~~HQIC~~ HQJP), there are statutorily required minimum investment thresholds that must be met for the project to be considered to receive an award. Not all expenditures count toward meeting the investment threshold.



This rule identifies the categories of expenditures that can be included when the amount of investment is calculated for purposes of meeting program eligibility threshold requirements.

ITEM 68. Amend **261—Chapter 174**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 15, 15E and 15G as amended by 2009 Iowa Acts, Senate File 344.

ITEM 69. Amend rule 261—175.1(15) as follows:

**261—175.1(15,83GA,SF344) Applicability.** This chapter shall apply to the programs listed in rule 261—173.1(15,15G,83GA,SF344) and to other state and federal programs identified in this chapter. This chapter describes the application review and approval procedures and the role of the advisory groups or board committees and identifies the final decision maker for each program.

ITEM 70. Amend rule 261—175.2(15), parenthetical implementation statute, as follows:

**261—175.2(15,83GA,SF344) Application procedures for programs administered by the department.**

ITEM 71. Rescind subrule 175.2(1) and adopt the following **new** subrule in lieu thereof:

**175.2(1) IVF(2009).** Effective July 1, 2009, pursuant to 2009 Iowa Acts, Senate File 344, the grow Iowa values fund was updated, streamlined and simplified, preexisting state financial assistance programs were repealed and previous funding for these programs was transferred to IVF(2009). The fund is administered by the department, and the board has final decision-making authority for IVF(2009) financial assistance awards and other activities.

ITEM 72. Rescind and reserve subrules **175.2(2)** and **175.2(3)**.

ITEM 73. Amend subrule 175.2(5) as follows:

**175.2(5) ~~EDSA~~ Federal programs.** The department administers ~~the~~ federal programs including, but not limited to, the HOME program and the CDBG program. EDSA is the job creation component of ~~this federal funding source~~ the CDBG program. The department will review an application to ensure that the project meets the requirements for the ~~tax credit~~ programs through which an applicant is applying.

ITEM 74. Rescind subrules **175.2(7)** and **175.2(8)**.

ITEM 75. Renumber subrule **175.2(6)** as **175.2(7)**.

ITEM 76. Adopt the following **new** subrule 175.2(6):

**175.2(6) Other state programs.** In addition to the programs described herein, the department administers other state programs. The department will review an application to ensure that the project meets the requirements for the tax credit programs through which an applicant is applying.

ITEM 77. Amend renumbered subrule 175.2(7) as follows:

**175.2(7) Application required.** A business or community seeking financial assistance or tax credit benefits from a department program shall submit an application to the department. The applicant shall comply with the department's application procedures, processes, rules, and, as applicable, the wage and benefit requirements for that program and its funding source. Application forms and directions for completing the forms are available online at the department's Web site at www.iowalifechanging.com or at the department's offices located at 200 East Grand Avenue, Des Moines, Iowa 50309.

ITEM 78. Renumber rules **261—175.3(15)** and **261—175.4(15)** as **261—175.4(15)** and **261—175.5(15)**.

ITEM 79. Adopt the following **new** rule 261—175.3(15,83GA,SF344):

**261—175.3(15,83GA,SF344) Standard program requirements.** In addition to the eligibility requirements of the individual programs applicable to the financial assistance sought, an applicant shall be subject to all of the following requirements:

**175.3(1) *Environmental and worker safety.*** The applicant shall submit to the department with its application for financial assistance a report describing all violations of environmental law or worker safety law within the last five years. If, upon review of the application, the board finds that a business has a record of violations of the law, statutes, rules, or regulations that tends to show a consistent pattern, the board shall not make an award of financial assistance to the business unless the board finds either that the violations did not seriously affect public health, public safety, or the environment or, if such violations did seriously affect public health, public safety, or the environment, that mitigating circumstances were present.

**175.3(2) *Sustained operations.*** The applicant shall not have closed or substantially reduced operations in one area of this state and relocated substantially the same operations in a community in another area of this state. However, this subrule shall not be construed to prohibit a business from expanding its operations in a community if existing operations of a similar nature in this state are not closed or substantially reduced.

**175.3(3) *Competition.*** The proposed project shall not negatively impact other businesses in competition with the business being considered for assistance. The department shall make a good faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for financial assistance. The department shall make a good faith effort to determine the probability that the proposed financial assistance will displace employees of the existing businesses. In determining the impact on businesses in competition with the business being considered for financial assistance, jobs created or retained as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created or retained.

**175.3(4) *Legally authorized employment.*** The applicant shall only employ individuals legally authorized to work in this state. In addition to any and all other applicable penalties provided by current law, all or a portion of the assistance received by a business which has received financial assistance under the program and is found to knowingly employ individuals not legally authorized to work in this state is subject to recapture by the department.

ITEM 80. Amend renumbered rule 261—175.4(15), parenthetical implementation statute, as follows:

**261—175.4(15,15G,83GA,SF344) Review and approval of applications.**

ITEM 81. Amend renumbered subrule 175.4(1) as follows:

**175.4(1) *Staff review for eligibility.*** Applications received by the department will be reviewed by program staff to ensure that documentation of minimum program eligibility requirements has been submitted by the applicant. Complete applications will be forwarded to the appropriate decision maker for action.

ITEM 82. Rescind renumbered subrules **175.4(2)** and **175.4(3)**.

ITEM 83. Adopt the following **new** subrules 175.4(2) to 175.4(4):

**175.4(2) *Additional review factors.*** In addition to reviewing an application for eligibility, the department and the board may consider additional factors. Upon review of these additional factors, the board may determine that the applicant is ineligible to receive assistance until such time as the pending resolution of any outstanding issues identified by the board. Additional factors to be considered include:

*a. Applicant's past or current performance.* If an applicant has received a prior award(s) from the department, the department and board will take into consideration the applicant's past or current performance under the prior award(s).

*b. Results of due diligence review.* This review will include, but is not limited to, lien searches, reports of violations, lawsuits and other relevant information about the applicant.

*c. Report on environmental law compliance.* This report is required by rule 261—172.1(15A) and applicable program statutes.

*d. Report on violations of law.* This report is required by rule 261—172.2(15A) and applicable program statutes.

**175.4(3) Negotiations.** Department staff may negotiate with the applicant concerning dollar amounts, terms, collateral requirements, conditions of award, or any other elements of the project. The board or director may offer an award in a lesser amount or that is structured in a manner different from that requested. Meeting minimum eligibility requirements does not guarantee that assistance will be offered or provided in the manner sought by the applicant.

**175.4(4) Approval procedures.**

*a. Approval.* Application approval procedures shall comply with statutory requirements for the program or funding source and applicable program rules. The board shall take final action on all applications or activities funded through IVF(2009), HQJP, EZ and other programs as described in the following paragraphs. The director shall take action on all other applications or activities that are not identified as requiring board action. Paragraphs “b” to “e” describe the review and approval processes, by funding source and program.

Key to tables:

APAC – Agricultural policy advisory committee established in Iowa Code section 15.203 as amended by 2009 Iowa Acts, Senate File 344, section 23.

BRN – Brownfield redevelopment advisory council as established in Iowa Code section 15.294.

CWD – Community and workforce development committee created by the board.

DDC – Due diligence committee established by the board pursuant to Iowa Code section 15.103(6).

LCG – Loan and credit guarantee committee established in Iowa Code section 15.103(6) as amended by 2009 Iowa Acts, Senate File 344, section 18.

TSB – Targeted small business advisory council established in Iowa Code section 15.247(8).

TCC – Technology commercialization committee established in Iowa Code section 15.116 as amended by 2009 Iowa Acts, Senate File 344, section 22.

*b. Advisory committee recommendations and final action—state financial assistance programs.* The approval process for applications for financial assistance and any other request for funding from the department’s direct financial assistance programs is as follows:

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
Grow Iowa Values Financial Assistance Program:									
130% wage component				•				•	
100% wage component				•				•	
Entrepreneurial component				•				•	
Infrastructure component				•				•	
Value-added agriculture component	•							•	
Disaster recovery component				•				•	
Loan and Credit Guarantee Program					•			•	
Other Iowa Values Fund (2009) activities:									
Marketing								•	
Labor shed study								•	

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
Technical assistance and information technology								•	
Opportunities and threats								•	
All other IVF assistance								•	
Innovation and Commercialization Fund:									
Demonstration Fund							•	•	
Information Technology Training Program							•	•	
Targeted Industries Internship Program							•	•	
Community College Equipment and Training Fund							•	•	
Targeted Industries Networking Fund							•	•	
Targeted Industries Student Competition Fund							•	•	
Targeted Industries Career Awareness Fund							•	•	
Lean Manufacturing Institute Program							•	•	
Supplier Capacity and Product Database Program							•	•	
Management Talent Recruitment Program							•	•	

c. *Advisory committee recommendations and final action—tax credit programs.* The approval process for applications for financial assistance and any other request for funding from the department's tax credit programs is as follows:

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
High Quality Jobs				•				•	
Enterprise Zone									
Business				•				•	
Housing									•
Film, Television, and Video Project Promotion									•
Assistive Device Tax Credits									•

d. *Advisory committee recommendations and final action—federal programs.* The approval process for applications for financial assistance and any other request for funding from the department’s federal programs is as follows:

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
HOME									•
CDBG									
EDSA				•				•	
All other CDBG assistance									•
Neighborhood Stabilization Program									•

e. *Advisory committee recommendations and final action—other department-administered programs.* The approval process for applications for financial assistance and any other request for funding from other department-administered programs is as follows:

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TCC	TSB	Board	Director
Brownfield Redevelopment Program		•							•
Targeted Small Business Financial Assistance Program							•		•
Export Trade Assistance Program									•
Accelerated Career Education Program			•					•	
Targeted Jobs Withholding Tax Credit Program									•

ITEM 84. Amend renumbered rule 261—175.5(15), parenthetical implementation statute, as follows:

**261—175.5(15,15G,83GA,SF344) Procedures for waiver of wage and other program requirements.**

ITEM 85. Amend renumbered subrule 175.5(1) as follows:

**175.5(1) General information.** Within the parameters described in this rule, the board may, for good cause shown, waive qualifying wage threshold requirements ~~and some nonstatutory CEBA program requirements. Iowa Code section 15G.112 2009 Iowa Acts, Senate File 344, section 3, permits applicants to apply to the board for a waiver of the IVF (2005) qualifying wage requirement (130 percent of the average county wage) qualifying wage threshold for the 130 percent wage component of the grow Iowa values financial assistance program. Iowa Code section 15.335A(3) as amended by 2009 Iowa Acts, Senate File 344, section 16, allows a community to apply to the board for a project-specific waiver from the average county wage calculations qualifying wage threshold requirement provided in the HQJC program HQJP in order for an eligible business to receive to seek tax incentives for an eligible business. This rule also establishes a process for applicants to apply for a waiver of certain nonstatutory program requirements that the department has established by rule for the CEBA program. The waiver of CEBA nonstatutory program requirements is available only if the funding for the CEBA project is from program funds (“old money”). The meaning of “program funds (“old money”)” is as described in subrule 175.2(3).~~

ITEM 86. Amend renumbered subparagraph **175.5(2)“b”(2)** as follows:

(2) All jobs created as a result of the project have a qualifying wage threshold ~~, not including benefits,~~ equal to or greater than 100 percent of the ~~average~~ county wage.

ITEM 87. Rescind renumbered paragraph **175.5(2)“c.”**

ITEM 88. Amend renumbered subrule 175.5(3) as follows:

**175.5(3)** ~~Request to waive HQJC average county wage calculation~~ HQJP qualifying wage threshold requirement.

a. Iowa Code section 15.335A(3) as amended by 2009 Iowa Acts, Senate File 344, section 16, authorizes a community to request a project-specific waiver from the ~~average county wage calculations~~ qualifying wage threshold requirement in order ~~for an eligible business to receive~~ to seek tax incentives ~~for an eligible business.~~

b. Upon a showing of good cause as defined in subrule ~~175.4(2)~~ 175.5(2), the board may grant a project-specific waiver from the ~~average county or regional~~ wage calculations for the remainder of ~~the~~ a calendar year based on ~~average county wage~~ or regional wage calculations brought forth by the applicant county including, but not limited to, any of the following:

(1) The ~~average~~ county wage calculated without wage data from the business in the county employing the greatest number of full-time employees.

(2) The ~~average~~ regional wage calculated without wage data from up to two adjacent counties.

(3) The ~~average~~ county wage calculated without wage data from the largest city in the county.

(4) to (6) No change.

ITEM 89. Amend renumbered subrule 175.5(4), catchwords, as follows:

**175.5(4)** ~~Request to waive IVF (2005) qualifying wage requirement~~ qualifying wage threshold for the 130 percent wage component of the grow Iowa values financial assistance program.

ITEM 90. Amend renumbered paragraphs **175.5(4)“a”** and **“b”** as follows:

a. ~~Iowa Code section 15G.112~~ 2009 Iowa Acts, Senate File 344, section 3, allows applicants to apply to the board for a waiver of the ~~IVF (2005) qualifying wage requirement~~ 130 percent wage component of the grow Iowa values financial assistance program.

b. Upon a showing of good cause as defined in subrule ~~175.4(2)~~ 175.5(2), the board may grant a project-specific waiver of the ~~IVF (2005) qualifying wage requirement~~ qualifying wage threshold for the 130 percent wage component of the grow Iowa values financial assistance program. The board may grant a waiver from the ~~average county wage calculations~~ based on ~~average county or regional~~ wage calculations brought forth by the applicant including, but not limited to, any of the following:

(1) The ~~average~~ county wage calculated without wage data from the business in the county employing the greatest number of full-time employees.

(2) The ~~average~~ regional wage calculated without wage data from up to two adjacent counties.

(3) The ~~average~~ county wage calculated without wage data from the largest city in the county.

(4) A qualifying wage ~~guideline~~ threshold for a specific project based upon unusual economic circumstances present in the city or county.

(5) and (6) No change.

ITEM 91. Rescind renumbered paragraph **175.5(4)“c.”**

ITEM 92. Rescind renumbered subrules **175.5(5)** and **175.5(6).**

ITEM 93. Amend **261—Chapter 175**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 15, 15E and 15G as amended by 2009 Iowa Acts, Senate File 344.

ITEM 94. Amend subrule 187.2(2) as follows:

**187.2(2)** *Contract required.* The department shall prepare a contract, which includes, but is not limited to, a description of the project to be completed by the business; the jobs to be created or retained; length of the project completion period and maintenance project completion period; the project completion date and maintenance period completion date; conditions to disbursement; a requirement

for annual reporting to the department; and the repayment requirements of the business or other penalties imposed on the business in the event the business does not fulfill its obligations described in the contract and other specific repayment provisions (“clawback provisions”) to be established on a project-by-project basis.

ITEM 95. Amend rule 261—187.3(15) as follows:

**261—187.3(15) Project completion date and maintenance period completion date.**

**187.3(1)** Projects shall be completed by the project completion date and maintained through the end of the maintenance date. The contract will establish the duration of the project period and maintenance period. Requests to change the project completion date and the maintenance period completion date shall follow the process for an amended award or contract as described in rule 261—187.4(15).

~~**187.3(2)** Projects receiving funding from programs or funding sources that have statutory project completion and maintenance periods shall comply with the requirements for that program or funding source.~~

~~**187.3(3)** 187.3(2) Projects receiving assistance from programs without statutory project completion and maintenance periods covered by this chapter shall conform to the time periods established by this rule, unless a different time period is negotiated and approved by the board or director.~~

**187.3(4)** **187.3(3)** By the project completion date, a recipient shall have completed the project as required by the contract. The jobs and project shall be maintained through the end of the maintenance period completion date. The project completion date is calculated by the department from the end of the month during which an award is made. For example, if a ~~CEBA~~ an award is made on June 13, 2007, the three-year project completion ~~period~~ date will be calculated from June 30, 2007. The project completion date for this award would be June 30, 2010. The maintenance period completion date would be June 30, 2012.

~~**187.3(5)**~~ **187.3(4)** The following table describes, by program, the length of the project completion period and the maintenance period:

Program	Project Completion <u>Date Period</u>	Maintenance <del>Date</del> <u>Period</u>	Total Contract Length
<del>CEBA</del>	<del>3 years</del>	<del>2 more years</del>	<del>5 years</del>
<del>*PIAP</del>	<del>3 years</del>	<del>2 more years</del>	<del>5 years</del>
<del>*EVA</del>	<del>3 years</del>	<del>Until repayment obligation is fulfilled</del>	<del>Variable</del>
<del>*VAAPFAP</del>	<del>3 years</del>	<del>2 more years</del>	<del>5 years</del>
<del>EDSA</del>	<del>3 years</del>		<del>3 years</del>
<del>*If the project is funded with IVF(FES) or program funds (“old money”), these time periods do not apply.</del>			
<del>EZ</del>	<del>3 years</del>	<del>10 more years</del>	<del>13 years</del>
<del>HQJC 3-15 jobs</del>	<del>3 years</del>	<del>2 more years</del>	<del>5 years</del>
<del>HQJC 16 or more jobs</del>	<del>5 years</del>	<del>2 more years</del>	<del>7 years</del>
<del>Other Contracts in IDED Project Portfolio (beginning 7/1/03)</del>			
<del>CEBA awards prior to approximately 9/1/05</del>	<del>3 years</del>	<del>Ranging from 13 more weeks to 3 more mos.; as stated in the contract</del>	<del>Variable</del>
<del>IVF(FES) direct project awards from 7/1/03 to 6/16/04</del>	<del>Up to 4 years or longer</del>	<del>Up to 6 years; as stated in the contract</del>	<del>Up to 10 years</del>
<del>NCIP</del>	<del>3 years</del>	<del>2 more years</del>	<del>5 years</del>
<del>NJIP</del>	<del>5 years</del>	<del>5 more years</del>	<del>10 years</del>
<u>Grow Iowa Values Financial Assistance Program:</u>			
<u>130% wage component</u>	<u>3 years</u>	<u>2 more years</u>	<u>5 years</u>
<u>100% wage component</u>	<u>3 years</u>	<u>2 more years</u>	<u>5 years</u>
<u>Entrepreneurial component</u>	<u>3 years</u>	<u>2 more years</u>	<u>5 years</u>

Program	Project Completion <del>Date</del> Period	Maintenance <del>Date</del> Period	Total Contract Length
<u>Infrastructure component</u>	<u>3 years</u>	<u>2 more years</u>	<u>5 years</u>
<u>Value-added agriculture component</u>	<u>3 years</u>	<u>2 more years</u>	<u>5 years</u>
<u>Disaster recovery component</u>	<u>3 years</u>	<u>2 more years</u>	<u>5 years</u>
<u>High Quality Jobs Program</u>	<u>3 years</u>	<u>2 more years</u>	<u>5 years</u>
<u>Enterprise Zone Program</u>	<u>3 years</u>	<u>2 more years</u>	<u>5 years</u>

ITEM 96. Amend rule 261—187.4(15), catchwords, as follows:

**261—187.4(15) Contract amendments and other situations requiring board, due diligence committee (DDC) or director approval and award amendment approval procedures.**

ITEM 97. Rescind subrules **187.4(2)** and **187.4(3)**.

ITEM 98. Adopt the following **new** subrule 187.4(2):

**187.4(2)** All award and contract amendments will be reviewed by the applicable committee identified below, and final action will be taken by the board or director, as identified in the following tables.

Key to tables:

APAC – Agricultural policy advisory committee established in Iowa Code section 15.203 as amended by 2009 Iowa Acts, Senate File 344, section 23.

BRN – Brownfield redevelopment advisory council as established in Iowa Code section 15.294.

CWD – Community and workforce development committee created by the board.

DDC – Due diligence committee established by the board pursuant to Iowa Code section 15.103(6).

LCG – Loan and credit guarantee committee established in Iowa Code section 15.103(6) as amended by 2009 Iowa Acts, Senate File 344, section 18.

TSB – Targeted small business advisory council established in Iowa Code section 15.247(8).

TCC – Technology commercialization committee established in Iowa Code section 15.116 as amended by 2009 Iowa Acts, Senate File 344, section 22.

*a. Amendments—state financial assistance programs.* The approval process to amend an award or a contract for the department's direct financial assistance programs is as follows:

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
Grow Iowa Values Financial Assistance Program:									
130% wage component				•				•	
100% wage component				•				•	
Entrepreneurial component				•				•	
Infrastructure component				•				•	
Value-added agriculture component	•							•	
Disaster recovery component				•				•	
Loan and credit guarantee program					•			•	



PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
Other Iowa Values Fund (2009) activities:									
Marketing								•	
Labor shed study								•	
Technical assistance and information technology								•	
Opportunities and threats								•	
All other IVF assistance								•	
Innovation and Commercialization Fund:									
Demonstration Fund							•	•	
Information Technology Training Program							•	•	
Targeted Industries Internship Program							•	•	
Community College Equipment and Training Fund							•	•	
Targeted Industries Networking Fund							•	•	
Targeted Industries Student Competition Fund							•	•	
Targeted Industries Career Awareness Fund							•	•	
Lean Manufacturing Institute Program							•	•	
Supplier Capacity and Product Database Program							•	•	
Management Talent Recruitment Program							•	•	

*b. Amendments—tax credit programs.* The approval process to amend an award or a contract for the department's tax credit programs is as follows:

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
High Quality Jobs				•				•	
Enterprise Zone									
Business				•				•	

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
Housing									•
Film, Television, and Video Project Promotion									•
Assistive Device Tax Credits									•

c. *Amendments—federal programs.* The approval process to amend an award or a contract for the department’s federal programs is as follows:

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
HOME									•
CDBG									
EDSA				•				•	
All other CDBG assistance									•
Neighborhood Stabilization Program									•

d. *Amendments—other department-administered programs.* The approval process to amend an award or a contract for other programs administered by the department is as follows:

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TCC	TSB	Board	Director
Brownfield Redevelopment Program		•							•
Targeted Small Business Financial Assistance Program							•		•
Export Trade Assistance Program									•
Accelerated Career Education Program			•					•	
Targeted Jobs Withholding Tax Credit Program									•

ITEM 99. Renumber subrule **187.4(4)** as **187.4(3)**.

ITEM 100. Amend paragraphs **187.5(3)“b”** to **“e”** as follows:

b. If the department determines that the recipient is in default, the department may seek recovery of all program funds plus interest, assess penalties, negotiate alternative repayment schedules, suspend or discontinue collection efforts, and take other appropriate action as the ~~department~~ department board deems necessary.

c. Determination of appropriate repayment plan. Upon determination that the recipient has not met the contract obligations, the department will notify the recipient of the amount to be repaid to the department. If the enforcement of such penalties would endanger the viability of the recipient, the ~~department~~ department board may extend the term of the loan to ensure payback, stability, and survival of the recipient. In certain instances, additional flexibility in a repayment plan may be necessary to ensure payback, stability, and survival of the recipient. Flexibility in a repayment plan may include, but is not

limited to, deferring principal payments or collecting monthly payments below the amortized amount. In these cases, review and approval by the board, committee or director, as applicable, are necessary before the department may finalize the repayment plan with the recipient.

*d.* The department shall attempt to collect the amount owed. Negotiated settlements, write-offs or discontinuance of collection efforts is subject to final review and approval by the board, committee or director, as applicable, and described in paragraph “f.”

*e.* If the department or board refers defaulted contracts to outside counsel for collection, then the terms of the agreement between the department and the outside counsel regarding scope of counsel’s authorization to accept settlements shall apply. No additional approvals by the board, committee or director shall be required.

ITEM 101. Adopt the following new paragraph **187.5(3)“f”**:

*f.* The tables below describe the approval procedures that shall be followed for all negotiated settlements, write-offs or discontinuance of collection efforts for state direct financial assistance programs, federal programs, and other programs administered by the department.

(1) Direct financial assistance programs:

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
Grow Iowa Values Financial Assistance Program:									
130% wage component				•				•	
100% wage component				•				•	
Entrepreneurial component				•				•	
Infrastructure component				•				•	
Value-added agriculture component	•							•	
Disaster recovery component				•				•	
Loan and Credit Guarantee Program					•			•	
Other Iowa Values Fund (2009) activities:									
Marketing								•	
Labor shed study								•	
Technical assistance and information technology								•	
Opportunities and threats								•	
All other IVF assistance								•	
Innovation and Commercialization Fund:									
Demonstration Fund							•	•	
Information Technology Training Program							•	•	

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
Targeted Industries Internship Program							•	•	
Community College Equipment and Training Fund							•	•	
Targeted Industries Networking Fund							•	•	
Targeted Industries Student Competition Fund							•	•	
Targeted Industries Career Awareness Fund							•	•	
Lean Manufacturing Institute Program							•	•	
Supplier Capacity and Product Database Program							•	•	
Management Talent Recruitment Program							•	•	

(2) Federal programs:

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
HOME									•
CDBG									
EDSA				•				•	
All other CDBG assistance									•
Neighborhood Stabilization Program									•

(3) Other programs administered by the department:

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
Brownfield Redevelopment Program		•							•
Targeted Small Business Financial Assistance Program						•			•
Export Trade Assistance Program									•
Accelerated Career Education Program			•					•	
Targeted Jobs Withholding Tax Credit Program									•

ITEM 102. Amend paragraph **187.5(4)“a”** as follows:

*a. Repayment.* If an eligible business or eligible housing business has received incentives or assistance under the EZ program or the ~~HQJC program~~ HQJP and fails to meet and maintain any one of the requirements of the program or applicable rules, the business is subject to repayment of all or a portion of the incentives and assistance that it has received.

ITEM 103. Amend **261—Chapter 187**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 15, 15E and 15G as amended by 2009 Iowa Acts, Senate File 344.

ITEM 104. Amend rule 261—189.2(15) as follows:

**261—189.2(15) January 15 31 report by IDED to legislature.** ~~IDED~~ IDED's legal and compliance group will use the data it collects from businesses to prepare a report on the programs covered in 261—Chapter 173 to be included in IDED's consolidated annual report, which is due to the legislature by January 15 31 each year pursuant to Iowa Code section 15.104(9) as amended by 2009 Iowa Acts, Senate File 344, section 20. ~~This report by the department will include the statutorily required information pursuant to the following Iowa Code reporting requirements and may also include any information about programs administered by the department:~~

- ~~1. —§15.104(9) Grow Iowa values fund report required, including information about awards made under the renewable fuel infrastructure fund pursuant to Iowa Code section 15G.206.~~
- ~~2. —§15.113, report on CEBA and HQJC.~~
- ~~3. —§15E.111(8), report on VAAPFAP.~~

ITEM 105. Amend **261—Chapter 189**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 15, 15E and 15G as amended by 2009 Iowa Acts, Senate File 344.

[Filed Emergency 6/24/09, effective 7/1/09]

[Published 7/15/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/15/09.